

The Quality Initiative (QI)

MISSION STATEMENT

To create

- an accreditation system that allows those seeking advice on compulsory purchase to be in a position to differentiate between advisers.
- a learning and career development programme for those wishing to be CPO advisors

INTRODUCTION

With the development of HS2, Crossrail and a host of infrastructure and regeneration schemes, together with the Government's commitment to build more homes, the demand for land and the use of CPO powers to access the land will create an unprecedented demand for CPO practitioners; far outstripping those already offering such services.

Professionals are able to promote themselves as CPO advisors without the need to demonstrate any experience or knowledge; and undergraduate training does little to provide any exposure of consequence of CPO or its compensation. Whilst there are many competent practitioners offering CPO advice there is no minimum or best practice standard, and those new to this sector have little guidance as to what they need to achieve to be considered competent. Furthermore those seeking to obtain compulsory purchase advice have no benchmark against which to assess the ability of those offering such advice.

Within this context and against concerns raised about the quality of advice offered, the CPA is keen to promote an accreditation system; a system whereby practitioners can elect to demonstrate to an independent awarding body that they do indeed possess the knowledge and practical skills.

That independent awarding body will also provide a learning environment in which those seeking CPO knowledge can acquire it; for those new to the industry, and for those that want to develop their knowledge and experience.

The CPA will create a Compulsory Purchase Standards Board (CPSB), where the professions that have members involved in CPO practice will oversee the development and maintenance of standards. Already, there is the emergence of a Practice Standard, a Code of Ethics and a Pre Application Protocol which all accredited professionals will have to adhere to; but it is envisaged that the Courts and Tribunals will apply these standards to any case that comes to them.

Whilst the quality initiative is initially being introduced for surveyors, it is envisaged that the next step for the CPSB will be to introduce the QI to lawyers and planners.

THE FOCUS OF QI

Those affected by a CPO have not chosen or acted to be in the situation they find themselves. They have the choice of who to appoint, but whoever takes on such an appointment should be able to demonstrate knowledge, experience and proficiency in applying both; and to offer the comfort of a regulatory body overseeing that standards. Anyone who is accredited and who does not meet a standard they have signed up to should be capable of sanction.

This quality initiative (QI) has four parts;

- a. QI will create a set of standards – a practice statement, a code of ethics, a pre reference protocol and possibly guidance notes that benchmark the standards required for anyone offering CPO and compensation advice.
- b. QI is about creating letters a professional can use; and publishing a list of accredited practitioners (the Register) which acquiring authorities can offer to claimants. We want these to promote and show off those that are proficient and skilled. It's about enabling clients to make informed choices - not about stopping anyone from practising)
- c. QI will provide an educational system that currently doesn't exist, and provide basic and advanced level learning and assessment, and successful practitioners will be awarded a competency certificate. This will enable practitioners to use the letters and appear on a register of accredited practitioners.
- d. A fast track entry provision for those who have already attained skills and experience and happy to be adopt the standards as laid out by the standards board.

THE EMERGENCE OF THE COMPULSORY PURCHASE STANDARDS BOARD

The CPA will launch the Compulsory Purchase Standards Board (CPSB), along with the new practice statement, code of ethics and a code of conduct, as early as possible in 2016. The CPSB will seek to have the standards adopted by all in the CPO world; by professional bodies, the courts and Government departments and agencies with an interest in land acquisition. Whilst advisors will not be obligated to secure accreditation it is hoped that the attraction of being able to demonstrate competence will attract advisors to the CPSB.

The CPSB will be a wholly owned entity of the Compulsory Purchase Association. The board will invite representatives of CPA, RICS, CAAV, IRRV and it will oversee the practice standards, behaviours and educational needs of those practising in compulsory purchase. It will also have powers to call in accredited members to explain their actions against a complaint, and it will be able to report such individuals, and indeed any unaccredited practitioner to their respective professional body for them to consider their professional behaviour.

THE QI SCHEME

The scheme will be initially rolled out for surveyors; and those involved must be members of Royal Institution of Chartered Surveyors, the Central Association of Agricultural Valuers, or the Institute of Revenues, Rating and Valuation.

For this reason, the CPSB will be made up of those associated with surveyors, but as the scheme is broadened, so the other professions will be represented on the Board.

SKILL COMPETENCIES

Anyone professing to practice in this area must be able to explain and articulate the law and practice of compulsory purchase and compensation arising; and to appreciate the various positions of the acquiring authority, claimants and lobby stances. They must also be able to distinguish when they are in an advocacy role, and when they must assume an expert's role.

The working party, working with the College of Estate Management (CEM) has identified the skill competencies required, and has devised a scheme that provides training and a formal examination of those skills and practices.

There are two standards, FOUNDATION and PRACTITIONER. Foundation is all about knowledge; Practitioner is about experience and the application of that knowledge.

Details of the skill competencies will be published in due course, along with the syllabus and training programme. Securing the required standards will involve applicants attending training and awareness days and then passing an examination that will demonstrate their all round abilities, set and marked by College of Estate Management (with CPSB guidance), and attending a Viva, if required.

CEM will be the provider of education and the assessment. They will award competency certificates and these will permit practitioners to become members of the CPSB and receive the benefits of membership.

FAST TRACK

The working party is of the view that for the CPSB to achieve a critical mass in a short timescale there is a need for a fast track process for on-boarding established and suitably qualified members. The working party has wrestled with whether, and how, this can be achieved. It came to the inescapable conclusion that it would be both patronising and a waste of time and effort to expect such people to undergo a training programme and an exam. But we are equally clear they should not be given a pass into the scheme.

It has been agreed that they must within 6 months of the scheme going live;

- Prepare a submission which will include a detailed CV of their work, their education and a compelling case on why they should be considered good enough for entry via fast track. Those applying for entry via the fast track route will be offered the opportunity to elect to be regarded as practitioners in as many of 4 areas of compulsory purchase work – Pt 1, compensation, utilities and CPO process – as they consider appropriate. This sub division is only to be available for those entering by fast track.
- Undertake a Viva if asked

The proposal is:

- Fast track is only available for CPA members
- The fast track scheme will be available for 6 months and for practitioners only.
- Entry via fast track will be overseen by surveyors who have also previously been chairman of the CPA
- The member decides whether to join the fast track entry
- Anyone who fails the fast track system can appeal.
- Those applying for fast track will need elect which of the 4 main areas that they wish to be considered as a practitioner in

WHAT DO PRACTITIONERS WHO SUCCEED IN THE SCHEME GET?

Post nominals

Accredited Compulsory Purchase Practitioner – someone who has passed practitioner level

Published list of Practitioners

This list will be available to acquiring authorities who, it is hoped, will urge claimants to refer to when deciding who to appoint as advisors

SUMMARY

Given the CPA's position in the market place, the organisation's role (as set out in its constitution) and the need to ensure that the use of compulsory purchase is used appropriately and not brought into disrepute, it is best placed to introduce and enforce practice standards across professions. The CPA is seeking to reach out and work with relevant professional bodies to promote the quality initiative for everyone who has an interest in CPO work.

Appendix 1

Practice statement

Practice of CPO claimant work is in two parts – advocacy and negotiation; and expert witness stage. Whilst we wouldn't wish practitioners to be limited to negotiating, we would want them to do so in a professional manner. However, when they enter phase 2, there should be greater expectations on their behaviour

THE PROVISION OF ADVICE IN RESPECT OF COMPULSORY PURCHASE AND COMPENSATION

PRACTICE STATEMENT FOR SURVEYOR MEMBERS OF THE CPA

PRINCIPAL MESSAGE : Advice provided by Surveyor members of the CPA must, and must be seen to, demonstrate a proper understanding of the statutes and case law applicable to compulsory purchase and compensation matters.

1. APPLICATION OF THIS PRACTICE STATEMENT

- 1.1 This Practice Statement applies where any Surveyor member of the CPSB, hereinafter described as the "Surveyor", agrees to provide advice in respect of any compulsory purchase process and/or compensation matter. It applies to advice provided in connection with all types of statutory compensation and payments; for example, compensation for compulsory acquisition (e.g compensation under the Land Compensation Act 1961 as amended, Section 10 Compulsory Purchase Act 1965 and Part 1 Land Compensation Act 1973), compensation for planning matters (e.g. Article 4 Directions, Orders for the revocation or modification of planning permission etc.), compensation and damages for Wayleaves etc., It applies equally to any Surveyor acting for a compensating authority as it does to a Surveyor advising a claimant.
- 1.2 This Practice Statement also applies irrespective of whether or not the advice may ultimately be relied upon by any Judicial or quasi-Judicial Body in the United Kingdom which, for the avoidance of doubt, includes such Bodies as Courts, Tribunals, Committees, Inspectors, Adjudicators, Arbitrators, Independent Experts and Mediators (herein after described as a "Judicial Body").
- 1.3 This Practice Statement also applies to the provision of advice for the purpose of assisting a client to decide whether to initiate or defend judicial proceedings. Where the Surveyor accepts instructions to provide such advice in contemplation of Judicial or quasi-Judicial proceedings, the Surveyor must advise the client in writing if the Surveyor's advice or investigations would fall short of that necessary to enable evidence complying with the RICS Practice Statement "Surveyors acting as Expert Witnesses" to be provided.
- 1.4 Where the Surveyor considers that there are special circumstances which render it inappropriate or impractical for the assignment to be undertaken wholly in accordance with this Practice Statement, the details of and reasons for the departure must be immediately given to those instructing the Surveyor. Any Surveyor who does depart from this Practice Statement may be required to justify the reasons for the departure to the Compulsory Purchase Standards Board ("the CPSB"). The CPSB is entitled to take what measures it considers reasonable if it is not satisfied with the reasons given for and/or the manner in which the departure has been notified or evidenced, including in appropriate cases referring the matter to the Disciplinary Committee of the RICS in the event that the Surveyor is a Member or Fellow of the RICS.
- 1.5 This Practice Statement must be read in conjunction with the Maintaining Standards: Dealing With Inadequate Standards Practice Statement.

2. DUTY IN PROVIDING ADVICE

- 2.1 The primary duty of the Surveyor is to the client to whom the advice is given. This duty applies up to such time as a reference is made to the Lands Chamber, or to any other Judicial Body, to determine compensation. From the date of any such reference the Surveyor's duty as an expert is to the Judicial Body concerned and the Surveyor is recommended to refer to the latest edition of the RICS practice statement 'Surveyors acting as expert witnesses' in this respect.. If as a consequence of any reference to any Judicial Body the Surveyor believes that the basis upon which it has previously been negotiating on behalf of its client is no longer sustainable, the Surveyor's revised opinion should be advised to its client as soon as possible thereafter, in the event that the Surveyor has not previously advised its client accordingly.
- 2.2 The duty of the Surveyor is to take all reasonable endeavours to establish the true facts of the matter on which the Surveyor is instructed to advise, to base any advice given upon those facts and to address all matters

relevant to the advice sought so far as is reasonably possible. This duty applies whether or not the Surveyor is likely to be required to give evidence to any Judicial Body.

- 2.3 The Surveyor's advice should at all times be independent. In the event that the Surveyor has to seek advice from a third party in order to assist the formation of the Surveyor's own advice, the source of any third party advice must be identified.
- 2.4 At the commencement of the instruction the Surveyor should provide its client with impartial advice as to what the Surveyor believes to be the likely assessment of compensation in accordance with the statutory compensation code.
- 2.5 If the client is considering the reference of a compensation dispute to any Judicial Body, the Surveyor should provide its client with impartial advice as to what the Surveyor believes to be the likely assessment of compensation within the statutory compensation code. In the event of such a reference being made without prior consultation with the Surveyor, and as soon as possible thereafter, if the Surveyor has not previously done so it must provide such impartial advice to its client.

3. ACCEPTANCE OF AND CHANGES TO INSTRUCTIONS

- 3.1 The Surveyor may accept instructions to provide advice only in matters where:-
- (a) The Surveyor has the knowledge, experience, qualifications and training appropriate for the assignment; and
 - (b) The resources to complete the assignment within the time scale and to the standard required.
- 3.2 The Surveyor must, prior to accepting instructions:-
- (a) Advise in writing those instructing him that this Practice Statement will apply and offer to supply a copy of the Statement upon request;
 - (b) Ensure that there is a written record, held by the Surveyor, as to the matters on which advice is required, whether such written record is prepared on the initiative of the Surveyor or those instructing;
 - (d) Confirm the Surveyor's terms of engagement to the client; and
 - (e) Be satisfied that no conflict of interest arises. If the Surveyor has any doubt whatsoever in this respect any actual or potential conflict must be reported to those offering instructions as soon as it arises or becomes apparent. For the avoidance of doubt, any potential conflict arising after instructions have been accepted must be notified immediately.
- 3.3 If the Surveyor's instructions are changed or supplemented, the Surveyor must ensure that there is a written record thereof held as required in 3.2(b) above.

4 INSPECTION

- 4.1 Where any inspection of any property or facility is, in the surveyor's view, required it must always, where reasonably possible, be carried out to the extent necessary to produce advice which is professionally competent having regard to its purpose and the circumstances of the case.
- 4.2 Where such an inspection is not undertaken, or the inspection falls short of what is required, this must be stated and an explanation of the problems and implications for the advice identified.

5 EARLY ENGAGEMENT

- 5.1 The compulsory purchase process is seen by many to be adversarial. It need not be so.
- 5.2 The Surveyor will seek to engage with the other party, whether acquiring authority or claimant at the earliest opportunity, particularly in cases involving compensation for disturbance, for example where issues relating to the manner in which any relocation should be effected or perhaps where the decision as to whether the relocation of a business is a reasonable proposition in comparison with the extinguishment of that business. By doing so, it is more likely that the claimant can progress its relocation plans secure in the knowledge that the expenditure it incurs will be compensatable in accordance with the compensation code. Furthermore should the acquiring authority decline to engage, this will assist the claimant in defending its actions should the course it took be challenged by the acquiring authority at a later date.

- 5.3 Early engagement is the key to resolving disputes speedily. Early engagement will assist to dispel confusion and prejudices that can arise during the very early stages of preparation for any scheme involving compulsory acquisition. It is the Surveyor's obligation to provide leadership, including recommending to its client if the instruction of experts from other disciplines would be appropriate, in order that once formal negotiations begin they do so with the prospect of resolution.
- 5.4 In the event that the Surveyor is instructed in writing by its client not to have any early engagement with the other party, on receipt of such instruction the Surveyor must advise its client in writing as to why such early engagement is to be both preferred and recommended, and seek confirmation that the client's decision remains the same. In the event that the Surveyor receives such instruction orally, the Surveyor must similarly advise its client in writing as to why such early engagement is to be both preferred and recommended, and ask the client once having considered the Surveyor's recommendation to further confirm in writing to the Surveyor the client's instruction that there should be no early engagement.

5. REPORTS

- 5.1 The Surveyor's written advice will always be presented in an organised and referenced way, distinguishing where possible between matters of plain fact, expert observations and external influences.
- 5.2 The Surveyor will, in giving any advice, consider all matters material to the assignment.
- 5.3 The Surveyor will use plain language and explain any technical terms. The Surveyor will not use words, terms and/or a form of presentation with the intention of limiting the ability of those likely to have sight of the advice from checking the correctness of any statement, calculation or opinion given.

6. SUBSEQUENT AMENDMENT OF REPORTS

- 6.1 The Surveyor will, without undue delay, notify those instructing him if, after the issue of the advice, the Surveyor identifies a material inaccuracy or changes his view of a matter material to the advice given.

7. FEES

- 7.1 In the case of a Surveyor advising a potential claimant affected by a proposed Compulsory Purchase Order, it must be made clear to its client that whilst reasonable professional fees incurred in the assessment of compensation are usually reimbursable as part of a claimant's entitlement to compensation, in principle fees incurred in advising on and/or objecting to a proposed Order are not recoverable unless as a result of that objection the proposed Order is modified in respect of the land in question.
- 7.2 The Surveyor must ensure that its client understands fully the basis upon which the Surveyor's fees will be charged. In particular the Surveyor must make clear to any claimant client that:-
It is the client that is responsible for payment of the Surveyor's fee,
That in the absence of an undertaking to the contrary, fees will only be reimbursed by an acquiring authority following entry being taken pursuant to a Notice of Entry, or, after the date of vesting in the case of a General Vesting Declaration, or, after agreement of the compensation payable..
That the reimbursement of fees is subject to the test of 'reasonableness' consequently fees in respect of work undertaken that is considered to have been premature or in pursuing an ill-conceived element of a claim might not be reimbursed.
- 7.3 In the case of a Surveyor acting for a claimant in respect of a claim for compensation, at the commencement of the instruction it is recommended that the Surveyor should seek to agree its fee basis with the compensating authority. In the event that the compensating authority is only prepared to agree a fee basis lower than any fee basis agreed as between the Surveyor and its client, the Surveyor must either make clear to its client that its client will be liable to the Surveyor for the difference in fee recovery or advise its client that it has accepted the lower fee basis proposed by the compensating authority which basis will then be adopted as that agreed between the Surveyor and its client.

Appendix 2

MAINTAINING STANDARDS: DEALING WITH INADEQUATE STANDARDS

ETHICS

It is proposed that the CPSB adopts a Code of Conduct which members will be required, under the rules, to abide by. The first draft is set out below

Each member shall conduct his/her professional work by:

- (i) discharging their duties with due care, attention and competence having regard to the CPSB Practice Statement
- (ii) conducting themselves with diligence, honesty and integrity
- (iii) exercising their professional judgement objectively and impartially
- (iv) being open and accountable to clients in these matters
- (v) shall not discriminate on the grounds of race, sex, sexual orientation, creed, religion, disability or age
- (vi) Upholding and demonstrating these professional standards in his work, demonstrating their integrity so as to maintain the reputation of the CPSB.

MONITORING OF STANDARDS

Continuing Professional Development

In order to maintain integrity it is essential that those who wish to offer themselves forward in this field and under the auspices of the CPSB do so being able to show that they are up to date.

Every accredited CPSB practitioner must log 10 hours of demonstrably relevant CPD per annum – 5 of which must be formal e.g. attendance at course/conference) or and 5 of which can be informal.

The proposal is that CPSB develops an online system which requires members to maintain their CPD record

Complaints – reporting

In order to be of any value the organisation needs to have clear channels for logging and handling of complaints about the conduct of members

The proposal is that

- the CPSB be responsible for its own disciplinary conduct
- a complaint can be made at any time and by anybody
- the complaints procedure should be as accessible as possible but should discourage vexatious complaints

Complaints – handling

A three stage approach is recommended. Should a complaint be received by the CPSB then;

- a review to determine whether that which is presented is a complaint
- Should a complaint have been made then, in the first instance, the complainant should be referred to the adviser who should have a complaints procedure (something that we members will be required to have

- Should the complainant remain dis-satisfied after that then the CPSB disciplinary procedure should be introduced. The proposal is that the CPSB chair appoints a disciplinary panel of, say, 3 people (one CPA member 2 lay members) appointed on a case by case basis, to look into the complaint and report back with findings and proposed action.

In the event that the disciplinary panel considers that the complaint relates to an activity which may be regard as negligent or criminal then the panel should adjourn to allow the settlement of the negligence case or criminal proceedings respectively, reconvening only when those proceedings are concluded.

Complaints - sanctions

Where a complaint is upheld sanctions should be imposed, the sanction to be determined by the disciplinary committee – options open being

- Requirement for an undertaking from the member (e.g. to pay subscription, to undertake further training etc.)
- Downgrading of membership
- Suspension of membership – either for a time to be determined or conditions being met, and assessed on a case by case basis
- Expulsion from CPSB
- Any other sanction that the panel considers appropriate

Membership of CPA to follow membership of CPSB i.e. a member suspended by the CPSB would also be suspended by the CPA

Complaints - appeals

The proposal is that the CPSB has appeals procedure (against both finding and sanction), the appeal process to be managed by a person or persons appointed by the CPSB chair.

Those hearing an appeal

will have free rein to determine how to deal with each complaint and the extent and make up of an appeals panel

Appendix 3

PRE-REFERENCE PROTOCOL FOR COMPULSORY PURCHASE COMPENSATION CLAIMS

Introduction

Since the changes brought about by the amendments to the Civil Procedure Rules in attitudes to litigation, it has been commonplace for parties to explore means of avoiding contentious dispute resolution if possible. With that objective in mind, many forms of proceedings are subject to pre-action protocols which require prospective claimants and defendants to engage in meaningful negotiations as early as possible with a view to exchanging all relevant information so that either side can understand the other's case, can make a realistic offer of settlement and, ideally, avoid litigation altogether.

Alongside its reform agenda, the Compulsory Purchase Association is concerned to help make the CPO process as efficient and non-disputatious as possible. The Association therefore wishes to promote a culture, in common with other forms of contentious litigation, whereby prospective parties will regard adversarial dispute resolution as a last resort. To this end, potential claimants and acquiring authorities will be urged to make available and exchange relevant and necessary information to spell out the nature of their respective cases and to define the issues between them so that realistic and proportionate opportunities for settlement can be explored.

It is hoped that in most cases these exchanges will take place long before the stage is reached when either side might consider referring the matter to the Upper Tribunal (Lands Chamber) for formal resolution.

To this end, the CPA will undertake a consultation on the proposals set out below for a "Pre-reference Protocol for Compulsory Purchase Compensation Claims" so as to ensure that they reflect the views of the profession. When representations have been considered, it is hoped that the Upper Tribunal will endorse the content of the proposals and then have the ability to reflect non-compliance with its terms in decisions on costs where appropriate.

The Protocol

Subject to consultation as referred to above, it is proposed that the Protocol for Compulsory Purchase Compensation Claims should take the following form, together with a template for a letter before reference and for the opposing party's response. Despite the objective of the proposed Protocol to secure an early and meaningful exchange of information, there will be cases where the acquiring authority is the party who is contemplating making the reference and so the terms of the templates should be adapted accordingly.

Pre-reference Protocol for Compulsory Purchase Compensation Claims

1. This protocol applies to claims for compulsory purchase compensation (including but not limited to claims under Part I of the Land Compensation Act 1973 and claims for compensation under the Electricity Act 1989) which would be decided by the Upper Tribunal (Lands Chamber) ("Tribunal") if a reference was made to it to determine the claim. If the terms of the protocol are not complied with, the Tribunal may impose costs penalties to reflect the consequences of a failure to comply.
2. The protocol encourages an early start on negotiations between the parties, a clear identification of the basis of the claim and a full exchange of information on either side, all with the objective of arriving at a realistic possibility of settlement so that the resolution of a disputed claim by the Tribunal can be avoided. In all cases, references to the Tribunal should be regarded as an option of last resort.
3. The aim of this protocol is (a) to enable the parties to settle issues between them without needing to make a reference to the Tribunal and (b) to support the effective management by the Tribunal and the parties of any reference which cannot be avoided.
4. Claimants are normally entitled to their reasonable and proportionate professional costs of commencing, negotiating and settling their claim even if the matter does not go to the Tribunal. It may be possible for a

claimant, if the authority does not agree those costs, to have them determined by the Tribunal as a discrete issue.

5. The parties are reminded of the Tribunal's overriding objective to deal with cases justly and fairly. The parties must bear in mind the overriding objective when complying with this protocol and must try to further the overriding objective by (amongst other things) early exchange of information and timely responses to reasonable requests from the other party. If the parties do not comply with the terms and spirit of this protocol, the Tribunal is likely to take that into account when exercising its discretion on costs.
6. The parties are therefore encouraged to achieve the aims of this protocol by (a) exchanging information about any issue and (b) considering using alternative dispute resolution ("ADR").

The Claimant's claim

7. The claimant should have submitted its claim in response to notice to treat following confirmation of a compulsory purchase order – or deemed notice to treat where a general vesting declaration has been executed and in certain other cases. If (for good reason) the amount or heads of claim have changed, the claimant should notify the authority as soon as reasonably practical.
8. For claims subject to Section 4 of the Land Compensation Act 1961, there are specific provisions dealing with costs if a claimant fails to provide a properly particularised claim. The Tribunal retains a more general discretion (in all cases) to take into account any failure to comply with the terms of this protocol.

The Claimant's letter of claim

9. Before starting a reference, the claimant should send to the authority a letter of claim setting out a concise summary of the matter sufficient to allow the authority to understand the legal and evidential nature of the claimant's claim and investigate the issues without needing to ask for further information ("Letter of Claim"). The standard format of a Letter of Claim is set out in Annex A below. The claimant should send the Letter of Claim as soon as it has all the information it needs to formulate its claim (assuming the claimant has proceeded with reasonable diligence).
10. If the claimant does not send the Letter of Claim as soon as it has all the information it needs to formulate its claim (again assuming the claimant has proceeded with reasonable diligence), the authority should write to the claimant drawing attention to the terms of this protocol and inviting the claimant to take steps to submit a Letter of Claim. If the Claimant fails to do so, it may be penalised in costs by the Tribunal.
11. If, despite encouragement to do so, the claimant fails to send a Letter of Claim, the authority may either (a) set out its best assessment of the claim available to the claimant, appropriately supported and particularised as set out above (and should do so within 6 weeks of sending the letter in accordance with paragraph 10 of this protocol) or (b) tell the claimant it proposes to refer the claim for compensation to the Tribunal if it does not receive a Letter of Claim in the next 6 weeks.

The response of the authority

12. In all cases where the claimant has sent a Letter of Claim, the authority should respond by setting out its analysis of the claimant's claim, appropriately supported and particularised as set out above ("Letter of Response"). Even where the basis of the claimant's claim or head of claim has not been fully supported, explained or particularised, the party responding to the claim should still make its best assessment of the claim

or head of claim available to the claimant in so far as it is able to do so. The Letter of Response should (a) include a figure for the amount of its assessment of the claimant's entitlement to compensation (if any) and (b) be sent to the claimant within 8 weeks of receiving the Letter of Claim. The standard format of a Letter of Response is set out in Annex B.

13. If following receipt of the Letter of Claim, the authority requires clarification or further information from the Claimant, it should ask for such clarification or information within two weeks of receiving the Letter of Claim ("Letter of Clarification"). The claimant should reply to the Letter of Clarification within two weeks of receiving it.

Action following exchange of correspondence between the parties

14. Following issue of the Letter of Response, the parties should seek to reach agreement on as many heads of claim as possible within 4 weeks. Where the amounts at stake justify it, there should be a meeting between the parties (or their experts) to establish common ground. But the process of meetings or further correspondence should not be allowed to impede the swift resolution of the claim.
15. If after this period of 4 weeks, extended as necessary to allow agreement if possible, the parties have been unable to reach an agreed position, then they should consider whether some form of ADR would assist the agreement of the claimant's claim. If ADR would assist, then the parties should consider what form of ADR would be most suitable having regard to the nature of the claim and the still matters in issue. These options might include early neutral evaluation, mediation or arbitration. But it will be a matter for the parties which of these means might be most appropriate in the circumstances.
16. If, despite the terms of this protocol, the matter is ultimately referred to the Tribunal, the parties may be required to provide evidence that they did consider alternative means of resolving the dispute between them and the Tribunal may have regard to any failure to do so in determining costs.
17. It is only if all attempts at reaching agreement fail that the parties should contemplate referring the matter to the Tribunal and then only as a last resort. If a disputed claim is referred to the Tribunal, it is nevertheless hoped that the parties' attempts to resolve the claim before the making of a reference will result in the saving of Tribunal time by disposing in advance of matters which are agreed and identifying the outstanding issues to be resolved.

Annex A

Standard format for Claimant's Letter of Claim

(To be adapted as necessary where the authority or body responsible for paying compensation takes the initiative as referred to in para. 9 above)

Letter of Claim before proposed reference to Upper Tribunal (Lands Chamber)

This is the Claimant's Letter of Claim under the pre-reference protocol for compulsory purchase (and other) compensation claims ("Protocol"). You can see the Protocol by visiting: [\[insert website address\]](#). In accordance with the terms of the Protocol, your authority should respond, **within 8 weeks of the date of receiving this letter**, by setting out its analysis of the claim, appropriately supported and particularised as required by the Protocol. The authority's response should include a figure for the amount of its assessment of the claimant's entitlement to compensation (if any) under each respective head of claim identified below.

Claimant's name:

Claimant's Company Registration Number (if applicable):

Land affected:

Address for correspondence/solicitors' or agents' details where applicable:

Claimant's interest in land affected:

Statutory provision under which claim made:

Amount of compensation claimed:

Total Amount Claimed (if more than one amount of compensation claimed):

Acquiring/Compensating Authority:

Acquiring/Compensating Authority's address for correspondence:

Summary of claim (including details of legal and evidential nature of claim sufficient to allow the Authority to investigate the issues identified without needing to ask for further information):

Under Paragraph 13 of the Protocol, you are entitled to ask for clarification or information within 2 weeks of receipt of this Letter of Claim.

Annex B

Standard format for Acquiring/Compensating Authority's
Response to Claimant's Letter of Claim

Letter of Response to Letter of Claim

Claimant's name:

Land affected:

Acquiring/Compensating Authority's assessment of compensation:

Acquiring/Compensating Authority's assessment of total amount payable (if more):

Acquiring/Compensating Authority and address for correspondence:

This is the Acquiring/Compensating Authority's Letter of Response to the Claimant's Letter of Claim under the pre-reference protocol for compulsory purchase (and other) compensation claims ("Protocol"). You can see the Protocol by visiting: [\[insert website address\]](#). In accordance with the Protocol, the Authority sets out below its analysis of the claim, appropriately supported and particularised as required by the Protocol, and include a figure for the amount of the Authority's assessment of the claimant's entitlement to compensation (if any) under each respective head of claim.

[Or **Letter of Clarification**: Before responding fully to the Claimant's claim, the Authority requires the following information and/or clarification from the Claimant, which should be provided within two weeks of receipt of this letter, in accordance with the terms of the Protocol. **NOTE any such request must be made by the Authority within two weeks of receipt of the Claimant's Letter of Claim**]