

# Early CPO Alternative Dispute Resolution

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# Early CPO ADR

RICS Independent Evaluation

# Background – Catalyst for change

- Over inflated claims vs Low-ball initial payments
- Polarised from the start (perverse logic)
- Tribunal reference premature (time consuming & costly)
- Small claims/claimants “frightened” of Tribunal
- Existing forms of ADR rarely used

# Current forms of ADR – Is there an issue?

- Difficult to agree a form of ADR – with the result being it does not get used – leading to a dispute about how to resolve the dispute
- Can be costly, with no guarantee that it will lead to a settlement
- AAs often will not use ADR where they believe the costs are likely to be disproportionate to the claim
- There are no bespoke CP ADR schemes – tailored to resolve CP related disputes

# Aims

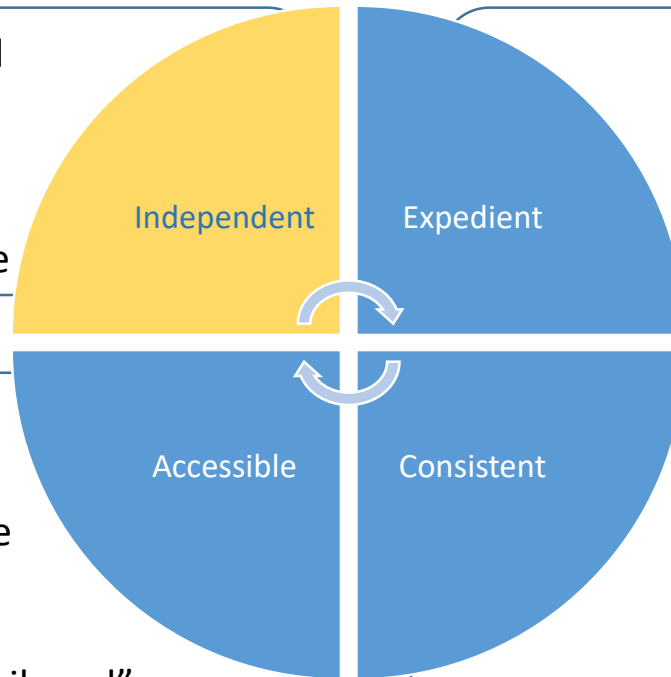
- Bespoke CP ADR with smaller/lower value/less complex claim focus
- Provide Independent review (3<sup>rd</sup> party evaluation) of claims
- Lower cost (more accessible), less formal alternative to Tribunal
- Avoid drawn out battles over misconceived/partisan positions
- Focus parties on realistic parameters early in process

# Proposal

- RICS to introduce a new form of **Independent** ADR tailored specifically to meet needs of Compulsory Purchase compensation disputes
- A familiar and **consistent** system
- Both parties bear cost of their own representation. **Costs claimable as part of the compensation claim**
- Expect the **cost of the “Independent Evaluation” paid by AA**
- Evaluator could comment on AA’s costs if claimant unreasonable (to be deducted from the advance payments)
- Non-binding (unless otherwise agreed by **BOTH** parties)
- Tribunal remains available if parties fail to ultimately agree
- **Outcome available to Tribunal (for determination of costs)**

# Underlying Principles

- Third party RICS appointed Evaluator
- Objective “arms length” review
- Reasoned written outcome



- Timetabled process
- Further advance payment on Outcome
- Realistic positions earlier

- Limited cost (Evaluator costs paid by AA, other reasonable costs claimable as part of claim)
- Less formal environment
- Avoid “Arms Race / Mini-tribunal”
- Clear written outcome – available to Tribunal in due course (for deliberation of costs)

- Structured process
- Familiar to industry participants
- RICS Trained Evaluators
- RICS monitored
- Aligns with Pre-reference protocol

# Evaluation Procedure

## Stage 1

- **Request**
  - Evaluation Proposal Notice
  - Reply to Evaluation Proposal Notice
  - Evaluation Request

## Stage 2

- **Appointment**
  - Preliminary Information Request (if required)
  - Replies to Preliminary Information Request (if required)
  - Appointment Notice



# Evaluation Procedure cont...

## Stage 3

- **Submissions**
  - Submissions Deadline
  - Independent Evaluator's Information Request
  - Replies to Independent Evaluator's Information Request

## Stage 4

- **Outcome**
  - Reasoned, written Evaluation Outcome

# Summary

- Independent
- Expedient
- Consistent
- Accessible



Clearer, fairer and faster

# Other likely benefits

- Encourage early and realistic claims and Advance Payments
- Reduce polarisation and resulting cost escalation
- Enable resources to be employed on the next project
- Freeing up Tribunal capacity for complicated claims

# Next steps

- RICS consultation launch