

Introduction

This document is submitted on behalf of the Compulsory Purchase Association (CPA) in response to the review being undertaken by the Chairman of Committees and the Chairman of Ways and Means relating to possible changes to the procedure and practice of both Houses in relation to hybrid Bills, so as to make the hybrid Bill process simpler and more modern.

The CPA's objective is to work for the public benefit in relation to compulsory purchase and compensation in all its forms. This includes promoting the highest professional standards amongst practitioners at all levels and participating in debate as to matters of current interest in compulsory purchase and compensation.

The CPA has over 600 members practising in this field, including surveyors, lawyers, accountants, planners and officers of public authorities.

This consultation response has been formulated following discussions within the National Committee of the CPA. It should be noted that this response may not represent the views of all CPA members, but is a consensus majority view reached after debate.

1. How should the process of depositing petitions be modernised?

It should be possible for petitions to be submitted by email and for payment (if retained) to be made electronically by credit or debit card.

The requirement to use archaic language within petitions should also be removed, as part of an overhaul to make the process more user-friendly and fit for purpose in the 21st century.

2. Should petitioning fees be changed or abolished? Are other petitioning expenses significant?

The fee should be abolished. It is not so significant as to dissuade all would-be petitioners from petitioning but it adds an additional and unnecessary hurdle in the process.

The requirement for petitions to be deposited in person also adds unnecessary time and cost to the process, particularly for petitioners based outside of London.

3. Should there be different processes for determining rights of audience ('locus standi'), such as a written or partly written process?

It would be helpful if the right for a party to be heard could be more clearly explained in objective guidance, in order to hopefully reduce the number of challenges in the first place. However, the issue of locus is sufficiently important for cases to be made in person.

4. Would guidance on cases where locus is likely or unlikely to apply be helpful?

Yes, if independent and objective and properly based on previous decisions of Parliament.

5. How can petitioner representation, including by agents, be improved and simplified?

It can be significantly improved by ensuring that petitioners are allocated sufficient time to present their case. It is vitally important that fairness is achieved for petitioners. That was not always the case for the HS2 Commons Select Committee.

Petitioners were put under considerable pressure to reduce the amount of time spent in case presentation, in many cases very much below the minimum level that the professional advisers to petitioners thought was fair. As a very broad and general rule of thumb, petitioners were allowed less than half the time that their professional advisers thought was necessary to ensure that the Committee properly understood the problem they faced and the solution they were seeking.

Towards the end of the House of Commons Select Committee process it was not uncommon for a dozen or more petitioners to be scheduled to appear on the same day as it became clear that the Committee wished to complete the process expeditiously. The allocation of such a high number of cases on a single day placed very considerable pressure on those petitioners and led to many petitioners feeling that they were not being provided with a fair opportunity to present their case effectively, resulting in a loss of faith in the process.

Adequate time needs to be allowed for a committee to hear and properly consider petitions raising serious points. The lack of any kind of decision on many petitions also led to the widespread feeling that the Commons Committee was simply going through the motions and was not genuinely addressing justified concerns.

The process can also be improved by requiring evidence to be exchanged earlier. On many occasions during the House of Commons Select Committee process, HS2 Limited presented petitioners with new evidence in the corridor outside the Committee room, placing considerable pressure on petitioners to make decisions on the spur of the moment, often following months of requests for that information to be provided. A requirement for a formal pre-appearance meeting between the promoter and petitioner, perhaps three weeks before the scheduled appearance, would greatly assist matters.

The Commons Committee was correct to identify problems of HS2 providing late petition response documents, and making late settlement approaches and late offers of meetings.

Consideration needs to be given to the promoter's privileged position of appearing continuously before the Committee. On the HS2 Commons Committee, there were examples of HS2 issuing updated undertakings or assurances to petitioners after the hearing of the petition and then, without notice to the petitioner, reporting that to the Committee. That might well have led the Committee wrongly to conclude that the objection had been resolved.

6. Should Members of Parliament be allowed to petition on behalf of their constituents and/or to represent petitioners?

Yes

7. How should Committees programme petitions so that arguments are heard fully and fairly by different contributors, and with opportunities for pursuing different remedies, but without unnecessary repetition?

To save the need to appear, there should be a process whereby petitioners can add their names to other petitions they support, to show that support (like MPs signing EDMs etc), and allow them then to withdraw their own petitions knowing that they are supporting others making the same points and that support will be visible to the committee.

8. Should programming of petitioner appearances be handled by area or by type of petitioner – for example, should local authorities all appear first?

Hearing Local Authorities first, followed by general interest and representative groups would seem appropriate. This would allow the general issues to be raised first and by those most capable of presenting them properly and efficiently. Thereafter hearing petitioners in geographical order is preferable (i.e. north to south), to enable localised petitioners to more easily follow events of relevance to their geographic area. This approach is also beneficial to the promoter and Committee members as it promotes familiarity with localised issues, rather than requiring the promoter's team and Committee members to hop around between unrelated matters up and down the route.

9. How can petition hearings work better?

It may be useful for petitioners to introduce their case with reference to a standardised set of plans, for ease of reference. It may also be fairer for petitioners to introduce their case, rather than for the case to be introduced by the promoter's Counsel.

It is also important for a committee to give clear decisions on petitions. The HS2 Commons Committee's approach of giving encouragement to HS2 to move on particular issues, or intervening informally, was generally ineffective at producing any movement on the part of HS2 and led to many issues being left unresolved, probably unnecessarily increasing the level of petitioning in the House of Lords. It also undermines the efficacy of petitioning and public confidence in the system as a meaningful form of engagement.

10. Should written representations be allowed?

Yes, for those petitioners who would prefer that process. The requirement to appear in person and present a case or provide oral evidence is very daunting for many petitioners and the opportunity to give evidence in writing as an alternative would likely be widely welcomed and also reduce the Select Committee sitting time.

11. How can strength of support for petitions be demonstrated without requiring appearances by petitioners who do not necessarily want to appear?

See response to question 7.

12. Which rules and guidance need clarifying?

There should be an express power to issue preliminary decisions and greater sanctions for failure to comply with decisions made by the Committee and timeframes set by the Committee.

Committees should have authority to award costs in favour of petitioners when Committees issue decisions in favour of petitioners, or on occasions where the promoter provides assurances or enter in to agreements with petitioners after they have been required to expend time and cost in preparing evidence to present to the Committee. This would likely encourage promoters to enter in to meaningful discussions earlier and result in a greater number of agreements being reached whereby fewer petitioners will appear in front of Committees.

The House of Commons petitioning kit requires petitioners to 'state what needs to be done to reduce the adverse effect the Bill has on you or your property and, if possible, how the Bill should be amended to achieve this'. This requirement should be more closely adhered to and, where a petitioner complies with the requirement the scheme promoter should be required to explain to the Committee how they have taken the proposal in to consideration and why the proposal should not be adopted.