



Welsh Government
Consultation Document

Updated Policy and Guidance on Compulsory Purchase in Wales

New Welsh Government Circular on Compulsory Purchase Procedure in Wales (including the 'The Crichef Down Rules' (Wales Version, 2019)) and revised national planning policy on the use of compulsory purchase powers

Date of issue: 9 October 2019
Action required: Responses by 24 January 2020

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Overview

This consultation seeks your views on:

- a new circular which contains updated guidance to be used by Local Planning Authorities and other public bodies when making compulsory purchase orders;
- 'The Crichef Downs Rules' (Wales version 2019) which provides guidance on the arrangements for offering back to former owners, their successors, or to sitting tenants surplus government land, which was acquired by, or under a threat of, compulsion; and
- revised national planning policy to strengthen support for the use of compulsory purchase powers by local planning authorities to facilitate the redevelopment of land and buildings in the public interest.

How to respond

The closing date for the consultation is 24 January 2020. You can reply in any of the following ways:

E-mail:

Please complete the consultation response form and send it to: planconsultations-d@gov.wales

Please include 'New Policy and Guidance on Compulsory Purchase – WG37651' in the subject line.

Post:

Please complete the consultation response form and send it to:

Compulsory Purchase Consultation
Decisions Branch
Planning Directorate
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

Planning Policy Wales (Edition 10)

<https://gov.wales/sites/default/files/publications/2019-02/planning-policy-wales-edition-10.pdf>

Development Management Manual Section 12 Annex:
Award of Costs

<https://gweddill.gov.wales/docs/desh/publications/170505-section-12-annex-award-of-costs-en.pdf>

Contact details For further information on this consultation, please contact:

Andrew Ward
andrew.ward@gov.wales
03000 259340

General Data Protection Regulation (GDPR)

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the GDPR, please see contact details below:

Data Protection Officer:
Welsh Government
Cathays Park
CARDIFF
CF10 3NQ

e-mail:

Data.ProtectionOfficer@gov.wales

The contact details for the Information Commissioner's Office are:

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 01625 545 745 or
0303 123 1113

Website: <https://ico.org.uk/>

Purpose of the consultation

1. The Welsh Government believes compulsory purchase powers are an important tool for Local Planning Authorities (LPAs) and other public bodies as a means of assembling the land they need to help deliver environmental, social and economic change. Used properly, they can contribute towards effective and efficient regeneration, the revitalisation of communities, placemaking, and the promotion of business, leading to improvements in quality of life.
2. The existing legislative basis for compulsory purchase is complex and the Welsh Government is committed to improving the compulsory purchase regime to make it fairer and more efficient and intelligible.
3. Major reforms to streamline and modernise the compulsory purchase regime in Wales were introduced via the Housing and Planning Act 2016 and the Neighbourhood Planning Act 2017.
4. In April 2018, the Welsh Government consulted on further technical reforms to the compulsory purchase process in Wales:
<https://beta.gov.wales/sites/default/files/consultations/2018-04/180430-changes-to-the-approval-of-infrastructure-development.pdf>.
A summary of the consultation responses is available at:
<https://beta.gov.wales/changes-approval-infrastructure-development>.
5. The purpose of this consultation is to seek views on:
 - A new Circular providing guidance on the recent reforms to the compulsory purchase system in Wales and, more generally, updated advice on the application of the correct procedures and statutory and administrative requirements.
 - Updated guidance on the arrangements for offering back to former owners, their successors, or to sitting tenants surplus government land, which was acquired by, or under a threat of, compulsion (known as ‘The Criche! Downs Rules’).
 - Revised national planning policy to strengthen support for the use of compulsory purchase powers by LPAs to help facilitate the redevelopment of land and buildings in the public interest.

What are the main issues?

6. A number of major reforms have been introduced to the compulsory purchase regime in Wales since the existing Welsh Government guidance on compulsory purchase, *The National Assembly for Wales Circular (NAFWC): 14/2004 Revised Circular on Compulsory Purchase Orders*, was published in 2004.
7. The lack of up-to-date Welsh Government guidance on compulsory purchase is seen by LPAs and other stakeholders as a barrier to the use of compulsory purchase powers. Key to improving confidence and understanding amongst stakeholders of the compulsory purchase regime in Wales is ensuring accurate, central Welsh Government guidance is in place.

Also, that national planning policy supports the use of compulsory purchase powers by LPAs to bring forward the redevelopment of land and buildings providing it is in the public interest.

8. The detailed guidance in the new, updated Circular on the compulsory purchase process in Wales will help LPAs and other public bodies use their compulsory purchase powers to best effect and to ensure compulsory purchase orders (CPOs) progress quickly and without defect.

What is the current position?

9. Underpinning the acquisition of land or rights via the use of compulsory purchase powers are the procedures outlined in the Compulsory Purchase Act 1965 (“the 1965 Act”) and the Acquisition of Land Act 1981 (“the 1981 Act”).

Circular

10. The current Welsh Government guidance on compulsory purchase is contained in *The National Assembly for Wales Circular (NAFWC): 14/2004 Revised Circular on Compulsory Purchase Orders*. Since its publication in 2004, the 1965 Act and 1981 Act have undergone a series of major reforms to streamline and modernise the compulsory purchase procedures. Fundamental to the Welsh Government’s commitment to improving the compulsory purchase regime in Wales is to publish a new, up-to-date Circular on the compulsory purchase process.
11. The current version of ‘The Crichel Downs Rules’ in operation in Wales are those which were issued by the former Department of the Environment and Welsh Office on 30 October 1992.

National planning policy

12. Paragraph 3.53 of Planning Policy Wales (Edition 10) (PPW) states LPAs may use their compulsory purchase powers to unlock the development potential of sites in exceptional circumstances. The Welsh Government supports the use of compulsory purchase powers by LPAs to acquire land and redundant buildings in the public interest and is committed to making the use of such powers more streamlined. As such, paragraph 3.53 of PPW is being considered for revision.

What we are proposing?

Circular

13. The Welsh Government intends to publish a new Circular to reflect the reforms to the compulsory purchase procedures in Wales introduced via the:
 - Planning and Compulsory Purchase Act 2004;
 - Localism Act 2011;
 - Growth and Infrastructure Act 2013;
 - Housing and Planning Act 2016; and
 - Neighbourhood Planning Act 2017.

14. The Welsh Government intends to modernise the compulsory purchase inquiry and written representations procedures in Wales through making a number of technical amendments to existing statutory instruments. The new Circular provides advice on these technical reforms.
15. The new Circular also contains updated 'Crichel Downs Rules' for Wales.
16. As future reforms are made to the compulsory purchase procedures in Wales the Circular will be kept updated to provide additional guidance and signposting to information.

National planning policy

17. The Welsh Government intends to revise PPW to strengthen support for LPAs to use their compulsory purchase powers to acquire land and redundant buildings in the public interest. Revising national planning policy to support the appropriate use of compulsory purchase powers will also provide LPAs with an additional justification for undertaking a CPO.
18. The Welsh Government is also considering whether LPAs should adopt general policies detailing the criteria they will apply when considering whether or not to exercise their compulsory purchase powers. This would streamline the compulsory purchase process and give developers, landowners, and communities greater clarity and consistency on when a LPA may be willing to exercise its statutory powers. This could facilitate more collaborative working between LPAs, developers and communities on sites which may be too small to be considered for allocation in a Local Development Plan but would otherwise be a sustainable housing site.

What specific changes are we proposing?

Circular

19. Part 1 of the new Circular provides an overview of the 6 stages of the compulsory purchase process:
 - Stage 1 - Choosing the right compulsory purchase power, i.e. general considerations which LPAs and other public bodies should take into account when considering whether to use their compulsory purchase powers.
 - Stage 2 - Justification for making a CPO; i.e. the matters LPAs and other public bodies should consider when justifying use of their compulsory purchase powers and compiling their 'compelling case'.
 - Stage 3 - Preparing and making a CPO, i.e. the correct procedures to follow and the documentation which should accompany a CPO when submitted to the Welsh Ministers for confirmation.

- Stage 4 - Consideration of a CPO, i.e. criteria for delegation of decisions to an Inspector; ability for LPAs and other public bodies to confirm their own CPOs; and how objections are considered e.g. via the inquiry or written representations procedures.
 - Stage 5 - Implementing a CPO, i.e. the requirements for confirmation notices and an overview of the notice to treat and general vesting declaration procedures.
 - Stage 6 – Compensation, i.e. the basis for calculating compensation where land is either taken or not taken.
20. Part 2 of the new Circular provides detailed guidance on the most commonly used enabling compulsory purchase powers. It also provides guidance on the Welsh Ministers' power to acquire land compulsorily.
 21. Part 3 discusses some of the procedural issues associated with the processing of CPOs. It also provides a checklist of the documents which should accompany a CPO submitted to the Welsh Ministers for confirmation.
 22. Part 4 provides an overview in diagrammatic form of the compulsory purchase process for non-ministerial CPOs.
 23. Part 5 contains 'The Crichel Down Rules (Wales Version, 2019)' and provides the rules and procedures for the disposal of surplus government land and the obligation to offer land back to former owners or their successors.
 24. The new Circular is aimed LPAs and other public bodies such as statutory undertakers which possess compulsory purchase powers.

National planning policy

25. We propose to revise paragraph 3.53 of PPW to strengthen the support for LPAs to compulsory acquire land and redundant buildings in the following way:

“3.53. Local planning authorities are encouraged to take a de-risking approach to unlocking the development potential of sites. In some instances the authority may need to purchase land in order to facilitate redevelopment. Wherever possible this should be with the agreement of the landowner, and, where agreements cannot be reached, local planning authorities should consider using the full range of powers available to them. This should include, where necessary, use of compulsory purchase powers where it is in the public interest to bring land and/or buildings forward for meeting development needs in their area and/or to secure better development outcomes”.
26. We are also giving consideration to whether LPAs should adopt general policies detailing the criteria they will apply when considering whether or not to exercise their compulsory purchase powers.

Consultation questions

27. Specific consultation questions relating to this consultation are set out below. If you wish to respond please complete the Consultation Response Form at Annex B.

Circular

Q1	Do you agree the guidance on the different stages of the compulsory purchase process in Part 1 of the Circular is clear? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

Q2	<p>In Part 1 of the Circular we have included examples of best practice relating to the erection and maintenance of site notices.</p> <p>We would welcome your examples of other best practices in the compulsory purchase order making process. Please use the space below.</p>
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Comments:

Q3	Do you agree the template model claim form set out in Part 1 of the Circular captures the relevant information required for: (a) a claim for compensation for the compulsory acquisition of land and / or taking of temporary possession; or (b) an application for an advance payment of compensation?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

Q4	Do you agree the guidance on the compulsory purchase enabling powers in Part 2 of the Circular is clear? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q5	Do you agree the procedural issues relating to compulsory purchase orders are clearly set out in Part 3 of the Circular? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q6	Do you agree the overview of the compulsory purchase process for non-ministerial compulsory purchase orders in Part 4 of the Circular is clear for both acquiring authorities and remaining objectors? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q7	Do you agree the rules and procedures for the disposal of surplus government land set out in Part 5 of the Circular ('The Crichef Down Rules' (Wales version 2019)) are clear to former landowners/ their successors, local authorities and statutory bodies. If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

National planning policy

Q8	Do you agree with the proposal to revise paragraph 3.53 of Planning Policy Wales (Edition 10) set out in paragraph 25 of the 'Consultation Executive Summary' document?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q9	Do you agree with the proposal that LPAs should adopt general policies detailing the criteria they will apply when considering whether or not to exercise their compulsory purchase powers?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q10	We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use the space below to raise them.
Comments:	

Call for evidence

28. The consultation also seeks evidence-based views on:

- case studies of the successful use of compulsory purchase powers to deliver housing-led regeneration schemes; and
- where changes could be potentially made to the compulsory purchase system to improve the delivery of housing-led compulsory acquisition schemes.

29. If you wish to respond please complete the Consultation Response Form at Annex B.

Q11	We would like to know your case studies of where compulsory purchase powers have been used successfully to deliver housing-led regeneration schemes. Please use the space below.
Comments:	

Q12	We would welcome your ideas on where you think changes could be potentially made to the compulsory purchase system to improve the delivery of housing-led compulsory acquisition schemes. Please use the space below.
Comments:	