

# Compulsory Purchase Procedure (CPO)

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## 1. Introduction

- 1.1 The Borough Council of Wellingborough will take every step to assist owners of vacant sites and/properties to bring them back into use. The council will also acquire land and buildings to facilitate their improvement, development or redevelopment provided that this will bring social, environmental or economic benefit and where it is necessary to achieve in the interests of the proper planning of the area.
- 1.2 For the purpose of this policy a 'vacant site' includes land with buildings on it that are not in use. Empty homes are referred to throughout the document as 'property' or 'residential property'.
- 1.3 However, there are some instances where, despite encouragement and the use of appropriate enforcement powers by the council, land and residential properties remain empty for long periods of time.
- 1.4 It is these sites and residential properties that can cause problems in the neighbourhood, such as:
- encouraging anti-social behaviour;
  - affecting the fabric of neighbouring properties;
  - negatively affecting property prices within the neighbourhood; and
  - generally becoming a blight on the community and environment.
- 1.5 It is in these sites and properties and those needed to facilitate development that, as a last resort, the council will pursue a Compulsory Purchase Order (CPO) for this procedure outlines the processes that will be taken before, during and after a CPO is approved.

## 2. Compulsory Purchase Orders (CPOs) powers

### The regulatory framework

- 2.1 CPO's are the final sanction available to local authorities to secure the improvement and/or development/redevelopment of vacant sites and to secure the reoccupation of empty homes.
- 2.2 **Guidance on Compulsory Purchase Process and The Critchel Down Rules for the disposal of surplus land acquired by, or under the threat of, compulsion** was published by the Department for Communities and Local Government (DCLG) and is available from their website.
- 2.3 The guidance provides encouragement to local authorities to make use of their CPO powers. It identifies that: *Compulsory purchase powers are an important tool to use as a means of assembling the land needed to help deliver social, environmental and economic change. Used properly, they can contribute towards effective and efficient urban and rural regeneration, essential infrastructure, the revitalisation of communities, and the promotion of business – leading to improvements in quality of life.'*

- 2.4 The DCLG is the government department responsible for handling housing and planning CPOs. Local authorities must submit applications to confirm CPOs through the DCLG, with the Secretary of State being the confirming authority. The Secretary of State can, where there have been no objections to the CPO (or any objections have been withdrawn) allow an authority to confirm a CPO itself. The Housing and Planning Act 2016 provides that the Secretary of State may authorise an inspector dealing with an objection to a CPO to make the decision on whether or not it should be confirmed
- 2.5 **Paragraph 51 of the National Planning Policy Framework** encourages local authorities to bring empty homes back into use, using their CPO powers where appropriate. It identifies that: *'Local planning authorities should identify and bring back into residential use empty housing and buildings in line with local housing and empty homes strategies and, where appropriate, acquire properties under compulsory purchase powers.'*
- 2.6 **Section 226(1)(a) Town and Country Planning Act 1990 (as amended)** provides councils with a very wide power to acquire land and buildings to facilitate their improvement, development or redevelopment provided that this will bring social, environmental or economic benefits. It does not matter that the improvement, development or redevelopment is to be carried out by a third party, such as a purchaser from the council. This power will often be used where a vacant site is CPO'd so that development can be undertaken by a third party. It can also be used to CPO an empty home which is in poor condition, where it can be said that the compulsory acquisition of the house will secure its 'improvement'. The DCLG online guidance says: *'This power is intended to provide a positive tool to help acquiring authorities with planning powers to assemble land where this is necessary to implement proposals in their Local Plan or where strong planning justifications for the use of the power exist. It is expressed in wide terms.....'*
- 2.7 **Section 226(1)(b) Town and Country Planning Act 1990 (as amended)** provides councils with a power to acquire land in their area which is required for a purpose which it is necessary to achieve in the interests of the proper planning of the area. This is a less well used power, but might be appropriate where, for example, an authority wanted to safeguard land for future development.
- 2.8 **Section 17 of the Housing Act 1985** gives local authorities the power to acquire land, houses or buildings for the purpose of improving and providing housing accommodation. This power can be used to acquire empty homes. It can also be used to acquire land and buildings for housing development. In both these cases there is often a choice of whether to use housing or planning powers. The DCLG online guidance provides: *Where an authority has a choice between the use of housing or planning compulsory purchase powers the Secretary of State will not refuse to confirm a compulsory purchase order solely on the grounds that it could have been made under another power.* However it should be noted that it is only possible to use planning powers to CPO an empty property where the property is in poor

condition and in need of *improvement*. It is probably best when seeking to CPO an empty property to use the housing power.

- 2.9 **The Acquisition of Land Act 1981** contains the statutory procedures for the making and confirmation of CPOs. Comprehensive guidance on the general procedure for CPOs is contained in the 2015 online guidance referred to in paragraph 2.3. In particular it provides guidance on CPOs used for planning and housing purposes. The test set out in the online guidance that the Secretary of State applies in deciding if a CPO should be confirmed is that of a *compelling case in the public interest*. This is also the test that a local authority should apply in deciding if it should make a CPO. Any CPO interferes with the human rights of those with an interest in the land. If the *compelling case* test is met, any interference with those rights is proportionate and lawful.

### **The Council's approach to CPO**

- 2.10 The council recognises the advantages of bringing vacant sites properties back into use and that it has a marked impact on the local environment and the quality of life for neighbouring residents and businesses. This also brings in additional council tax revenue and new homes bonus once they become occupied as well as meeting the growing demand for housing.
- 2.11 Any case for compulsory purchase must include proposals for the property or land in the event that a CPO is confirmed. The council needs to be satisfied at the outset of the CPO process that its aims for the site or property are likely to be achieved and funding needs to be allocated. With an empty home a change of ownership by itself is very likely to see it reoccupied, there may be extensive repairs and improvements required.
- 2.12 If the aim is to secure the redevelopment more details will be required as to how this will be achieved. The issue of whether planning permission will be required for the final development will need to be addressed, and whether it should be obtained before the CPO is confirmed. In the event of planning permission being obtained after the CPO is confirmed, it should be clear that there will be no impediments to achieving a suitable permission. In either case the council will need to consider the funding available for the CPO project. The costs may, for example, be provided wholly or mainly by a third party.
- 2.13 Proposals will be dependent on the type and location of the site or property but may include the sale of the property on the open market which may be through a property auction using a local preferred agent.

## **Before CPO's are considered**

### **3. Identifying Properties**

- 3.1 CPOs will not be made unless there is a compelling case in the public interest.
- 3.2 The identification of vacant sites and empty residential properties for possible CPO action can come from a variety of sources, including:
- referral from individual environmental health officers, police; arson task force and fire service
  - complaints from local residents;
  - councillors or MPs;
  - planning officers, housing officers, building control officers;
  - financial appraisals;
  - requirement for development; and
  - Internal records.
- 3.3 The identified officer will then obtain/confirm the following information on the site/property:
- from all local authority departments including council tax, electoral registration etc.
  - the address of the property or vacant land and a general description of its condition;
  - a copy of the land registry details to confirm ownership;
  - how long the property has been empty or the site vacant; and
  - details of previous complaint records.
- 3.4 To identify a property/site for progressing to a CPO the following must be considered and meet at least one of these:
- have a detrimental effect on the area; or
  - all appropriate enforcement powers available to the council have been exhausted; or
  - affect the stability of adjoining residential properties; or
  - be attracting anti-social behaviour; or
  - when a residential property is to be CPO'd for housing purposes then information needs to be provided on the housing stock available and the need for that type of accommodation or;
  - be identified as necessary to bring forward a development/regeneration area/site.
- 3.4 Having met these conditions, the following additional criteria may also prioritise those that are pursued with most urgency:
- squatted properties, and unlawful trespassers;
  - residential properties causing a nuisance to neighbours;
  - land or property needed to bring forward development;
  - residential properties identified by the police as causing particular problems in terms of crime; and
  - residential properties within or adjacent to regeneration schemes and

which might benefit the overall aims of the project.

#### **4. Actions to be undertaken prior to a CPO being considered**

- 4.1 The identified officer will write to the landowner or owner of the residential property in question, enquiring about their proposals for the property (letter 1). This letter will include, if appropriate, advice about how the property could be brought back into use. If there is no response within a maximum of 30 days the officer will send a reminder letter to the owner (letter 2).
- 4.2 All letters will be sent recorded delivery to the property and address/es identified following a land registry search, information provided by council tax and any other appropriate information held by the council.
- 4.3 Should it not be possible to post any letters at the house or identify an alternative address for the owner, an appropriate notice will be put up on the door, asking the owner to contact the council.
- 4.4 If there is no reply within the maximum of 30 days of the second letter, the officer will write again (letter 3), explaining that the council will issue the relevant enforcement notices if satisfactory proposals are not made for securing the reuse of the residential property or securing the development or redevelopment of the vacant site.
- 4.5 If an enforcement notice is not appropriate, it may be more relevant to send a letter warning about the possibility of a CPO at this stage. There may be some cases where it is both appropriate to serve an enforcement notice/make a prohibition order, and to proceed with a CPO. If this is the case it will be made clear in letter three. For example, there may be a long term empty property that is in very poor condition. Getting the condition improved will not necessarily achieve the objective of securing the reuse of the property; a CPO may still be required.
- 4.6 Enforcement notices will be served as appropriate, these notices include:
  - **Section 215 Town & Country Planning Act 1990** – Notice to require proper maintenance of land. Where the amenity of the area is adversely affected by the condition of a long term empty residential property or vacant site, there is a justifiable public complaint, there is a lack of confidence in the owner satisfactorily resolving the problem.
  - **Section 48 Planning (Listed buildings & Conservation Areas) Act 1990** - Repairs notice prior to compulsory purchase of listed building under section 47 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (only applicable where the property is listed)
  - **Section 265 Housing Act 1985 (demolition of dwelling unfit for human habitation).**
  - **Sections 11 & 12 Housing Act 2004** – improvement notice relating to

category 1 and category 2 hazards - where there is a lack of confidence in the successful outcome of an informal approach; there is a history of non-compliance with informal action; standards are generally poor with little management awareness of statutory requirements; or the consequence of non-compliance could be potentially serious to public health, effective action is needed to be taken quickly in order to remedy conditions which are serious or deteriorating.

4.7 The following prohibition orders can also be served where appropriate:

- **Section 20 & 21 Housing Act 2004** – prohibition order relating to category 1 and category 2 hazards, repair of the dwelling is not a financially viable option, the dwelling is occupied and there is a lack of confidence in the owner satisfactorily resolving the problem.
- **Section 43 Housing Act 2004** – emergency prohibition order to impose with immediate effect prohibition on the use of a premise due to the hazards present.

4.5 If the enforcement notices are not complied within the timescales specified in the notices, a 4<sup>th</sup> letter will be sent out. This will explain that if there is no response within 30 days, the council will take action to seek a compulsory purchase order. There may, as outlined above, be some cases where even if the notice is complied with it will still be appropriate to proceed with a CPO. This will be made clear in letter 3.

4.6 If after a maximum of 30 days there is still no response, the request to progress a CPO will be taken to committee and if approved the owner will be sent a final letter, informing them that an application for a CPO will be made.



**Before CPOs are considered**

•if BCW satisfied that landowner has provided a reasonable response, the CPO process will be deferred for 6 months.  
•Officers will monitor progress on the property. If at 5 months, no progress has been made, the landowner will be contacted once again to inform them that the Council will proceed with the CPO process.

**Letter One** sent to Landowner making enquiries about the future of the property

Response within max 30 days?

Yes

No

**Letter Two** sent to Landowner – reminder letter

Response within max 30 days?

Yes

No

**Letter Three** – sent to Landowner to inform them that Council will issue relevant enforcement notices.

Enforcement Notices complied with?

Yes

No

**Letter Four** – Informs landowner that approval of CPO powers being sought

Response within max 30 days?

Yes

No

**Final Letter** – Informs landowner that a CPO is to be made.  
**Property File** to be compiled to inc: land registry details, site plan, location map, details of any complaints or notices served/correspondance with landowner.

Revenue Costs

## **CPO process**

### **5. Actions during the CPO process**

- 5.1 The council will reconsider the position of pursuing a CPO at any point during this process if the owner is to contact the identified officer, and provide a timetable for action.

This should include timescales (as appropriate) for:

- securing the reoccupation of an empty dwelling;
- securing the development or redevelopment of a vacant site;
- making a planning application;
- starting work;
- any major milestones foreseen during the building programme;
- completion date;
- tenancy start date (to be provided once works are complete).

- 5.2 Assuming that the owner responds positively and that the proposed timescales are reasonable, a letter will be sent to the owner saying that the process will be deferred for a period of six months. Once five months have expired, the identified officer will contact the owner for a progress update. If progress is on target, and within the agreed timescales then CPO action will continue to be deferred. If however there has been no action or progress has been significantly delayed without the identified officer being informed, the CPO process will continue and the owner notified in writing of the action that is being taken.

- 5.3 Contact with the owner will be put in writing. Full written notes of all conversations both in person and over the telephone will be made at the time, as they are admissible as evidence, and copies of these kept on file and given to the owner.

### **6. Unknown land/property owner**

- 6.1 If the owner is unknown it is still possible to proceed with a compulsory purchase order. The procedure in section 5 should be followed with notices being placed on site in order to alert anyone who has an interest in the property, of the action being taken.
- 6.2 Additional inquiries should also be made, with other council departments, neighbours or surrounding property owners/agents to establish whether anyone knows who the property/land owner is and how they can be contacted.
- 6.3 It may also be appropriate to serve a requisition for information (under section 16 of the Local Government (Miscellaneous Provisions) Act 1976) on anyone who may be considered to have an interest in the property.
- 6.4 If the owner is unknown it may still be appropriate to serve the statutory notices, or make the relevant orders, referred to in section 4. Although there

may be little likelihood of compliance, the amount of compensation paid may be reduced.

## **7. CPO procedure and actions**

- 7.1 The identified officer will liaise with the officers in housing and planning to progress the case through to completion.
- 7.2 A file will be compiled, to include copies of letters sent to the owner, land registry search, reports from housing/planning/environmental protection officers and notes of meetings and correspondence with the owner.
- 7.3 The identified officer will be responsible for providing an estimate of the cost of acquisition and a location map showing the subject property and the net and gross areas of land. They will also establish whether planning consent is likely to be available for the proposed use or development of the property (if required) and whether the property is listed or situated in a conservation area.
- 7.4 The accountancy team will be consulted on the estimated costs and available budget.
- 7.5 The identified officer will write a committee report in accordance with the council's standard guidelines. This will report will be discussed at the CPO Officers group and then recommended for approval to progress to a CPO at the development committee for planning CPOs, services committee for housing CPOs, and resources committee if additional finances are required.
- 7.6 The report will include:
- a description of the property and its condition;
  - details of attempts made to encourage voluntary improvement and/or reoccupation;
  - the council's proposals for the property if a CPO is confirmed;
  - financial implications and confirmation that funding is available or sought in this report;
  - a reference to the *compelling case in the public interest* test and the issue of human rights;
  - details of the relevant statutory power; and
  - a recommendation that the relevant committee agrees that a CPO should be made and that officers are instructed to take all necessary action to implement the resolution.
- 7.7 If the committee agrees with the 'recommendation' and this is confirmed at Full Council, the identified officer will inform all relevant officers including the local land charges team and finance. The identified officer will appoint a legal consultant to support the process. The capital budget will be committed to the completion of the CPO.
- 7.8 The legal consultant will prepare the documents required to support the council's application to the secretary of state for confirmation of the CPO.

- 7.9 The following documents will need to be prepared for submission:
- a schedule identifying and describing all interests in the buildings and/or land;
  - a map showing the subject property (referred to as the 'Order Map') and;
  - a statement of reasons for making the CPO. This sets out the reasons why the council wants to make the CPO and details its proposals for the property if the CPO is confirmed.
- 7.10 The legal consultant will co-ordinate the following processes:
- 7.10.1 Referencing will be carried out. This is the process of identifying and describing the 'Schedule of Interests' in the land. It is designed to identify all those persons with an interest in the land affected by the CPO. These persons must be served with documents relating to the CPO at certain designated stages of the procedure. If a person with a legal interest in the property is not served with the appropriate documents it could cause the CPO to fail. However if the owner of the land is not known it is possible to proceed by affixing notices to the land.
- 7.10.2 Checks will be made with HM Land Registry to identify all registerable interests. Office copy entries will show names and addresses of the freeholder, lessees, and any mortgages. All of these parties shall be sent a letter by recorded delivery asking them to declare their interests in a standard form. If no reply is received within 21 days, another letter, enclosing a copy of the first, shall be sent, again by recorded delivery. A response will be requested within 21 days. In the unlikely event that land ownership changes during the CPO process then notices and negotiations will need to start again with the new owner/s which is likely to delay the process.
- 7.10.3 The order map will show the land to be acquired, and will usually be scale 1:500. It will be given an appropriate title and an 'attestation clause' (a statement confirming authenticity). The map will show the extent of the land to be acquired by a red line, and plot numbers where there is more than one plot. Street names in the immediate vicinity will be marked and a 'north point' shown.
- 7.10.4 The order map will be accurate. If, after an external inspection of the property, it is discovered that there is a discrepancy with the ordnance survey map, or the map attached to the office copy entries, the procedure for obtaining access for the purposes of an internal survey, will be followed. The council's legal consultant will be instructed to obtain a warrant (if required) to facilitate access to the property.
- 7.10.5 A 'Statement of Reasons' will be prepared to support the CPO. This statement will explain why the council has decided to make and pursue a CPO. Further guidance as to what to include in the

Statement of Reasons can be found in the DCLG online guidance.

7.10.6 When the schedule of interests, order maps and statement of reasons have been finalised, the legal formalities need to be followed. There are prescribed forms that must be used for the order, the press advertisement and the notices. These can be found in the Compulsory Purchase of Land (Prescribed Forms) (Ministers) Regulations 2004. The Acquisition of Land Act 1981 lays down the procedure to be followed with a CPO in terms of:

- newspaper notices;
- site notices;
- service on affected persons; and
- placing documents on deposit.

7.10.7 Engrossments of the order and copies of the map will be prepared along with the statement of reasons. Paper copies of the order and map will also be prepared.

7.10.8 Notice of the making of the order along with a copy of the order and map and the statement of reasons will be served by personal delivery to the last known address of the relevant persons or by recorded delivery post.

7.10.9 A notice of the making of the CPO will also be displayed on site; and a copy of the order and map will be placed on deposit for public viewing at one or more appropriate places;

7.10.10 At the same time as the notices are being served the following documents will be sent to the DCLG c/o the National Planning Casework Unit in Birmingham:

- 1 sealed and 2 unsealed copies of the order plus 2 sealed and 2 unsealed copies of the map;
- Statement of Reasons;
- Protected Assets Certificate (stating if the property is a listed building or in a conservation area, etc), at the end of the objection period a further certificate has to be sent to DCLG, certifying compliance with all formalities.

## **8. CPO Public Inquiry/written representations**

8.1 If there are no objections to the CPO it is likely that the secretary of state will authorise the council to confirm the CPO itself. A decision from the secretary of state can be expected within 2 months of the end of the objection period. If there are objections to the CPO from people who do not have an interest in the property (perhaps a neighbour), the secretary of state will normally issue a decision on whether or not to confirm the CPO within 3 months of the close of the objection period.

8.2 About 70% of CPOs do not have objections, or any such objections are

withdrawn. If there is an objection from someone with an interest in the land, the objection will be dealt with either by written representations or at a Public Inquiry. The written representation procedure can only be used where DCLG considers it appropriate and the objector consents. Most objections in practice are dealt with at a Public Inquiry.

- 8.3 Any person may object to a CPO but it is only objections by those with an interest in the land and residential property that trigger a Public Inquiry or written representations. Objections must be in writing and submitted DCLG
- 8.4 The most common objections from owners are:
  - disputing the council's case;
  - having their own proposals for the property; and
  - wanting more time to put proposals into effect.
- 8.5 At the end of the objection period, the DCLG will send copies of objections to the council. A subsequent letter will state whether the objection will be dealt with by written representations or at a Public Inquiry.
- 8.6 The procedure for public inquiries is set out in The Compulsory Purchase (Inquiries Procedure) Rules 2007. The procedure for written representations is set out in The Compulsory Purchase of Land (Written Representations Procedure) (Ministers) Regulations 2004. The council is responsible for paying the administrative costs of the planning inspectorate for holding the inquiry or dealing with written representations.
- 8.7 The written representations procedure allows the local authority and the objector to put forward written statements in support of their case. The inspector makes a site visit and issues a report to the secretary of state following consideration of the written statements.
- 8.8 Once the date of the Public Inquiry is fixed it will only be changed in exceptional circumstances.
- 8.9 If there is to be a Public Inquiry the council must produce a statement of case. This will be co-ordinated by the legal consultant and should set out the council's comprehensive reasons for making the CPO and answer the objections that have been submitted. Copies of any documents referred to in the statement of case must accompany the document, together with a list of other documents that the council intends to refer to at the Public Inquiry. This should also set out where such documents can be inspected. The statement of case, supporting documents and list of other documents must be submitted to the secretary of state and objectors 6 weeks from the date of the DCLG's letter informing the council of the need for a Public Inquiry.
- 8.10 Once the statement of case and documents to be referred to at the inquiry are prepared, work shall begin immediately on drafting the 'statement(s) of evidence' for the council's main witness/witnesses.
- 8.11 The statements of evidence can vary according to the evidence compiled in

the case, and should include:

- the problem the property is causing;
- details of complaints;
- the council's CPO policy and other relevant policies;
- the attempts that have been made to encourage voluntary improvement/development/reuse of the property concerned;
- the council's proposals for the property if the CPO is confirmed, and the ability to meet the costs involved.

- 8.12 Both the council and owner are entitled to engage legal representation to act on their behalf at the Inquiry, but this is not compulsory. It is customary for a local authority to be represented by a solicitor or barrister.
- 8.13 The council will consider the engagement of counsel (acting as its advocate) on a case by case basis and this will be done so at an early stage, so that they can be involved in all the various steps prior to the inquiry hearing.
- 8.14 The statements of evidence should be finalised at least 5 weeks before the Public Inquiry. This will give counsel sufficient time to consider the draft, for a conference to take place before the inquiry and for amendments to be made in the light of counsel's advice. Discussions on presentation of the council's case and tactics to be adopted should be finalised with counsel.
- 8.15 The statements of evidence have to be provided to the planning inspectorate and objectors at least three weeks before the inquiry date.
- 8.16 The inquiry will be conducted in accordance with the inquiry procedure rules. The inspector appointed by the secretary of state opens the inquiry, explains the procedure to be adopted. The council will be responsible for circulating an attendance list.
- 8.17 Counsel, on behalf of the council, will set out the case for the CPO to be confirmed. Statements of evidence will be read out by the council's witnesses with supplementary questions being put by counsel. The objector, or their representative, will have an opportunity to cross-examine at the end of each witness' evidence. The inspector may ask questions of the witnesses too.
- 8.18 The owner will then present their case and their witnesses will be cross examined by counsel and questioned by the inspector.
- 8.19 At this stage any members of the public who wish to speak will be given the opportunity to do so.
- 8.20 Finally each party has an opportunity to sum up, with the council going last. The Inspector will then announce an intention to carry out an inspection of the property before formally closing the Inquiry.
- 8.21 A representative of the council and the objector are invited to join the Inspector at the site visit but are not permitted to present any further evidence. The inquiry process can last anything from one-two days to one-

two weeks depending on the number of objections involved and the complexity of the case.

- 8.22 The council is normally notified of the secretary of state's decision 3-4 months after the inquiry. If the CPO is not confirmed by the Secretary of State this will generally be because he has not been satisfied of a compelling case in the public interest. There is an ability to challenge the secretary of state's decision in the high court. The identified officer will notify the CPO team, including the local land charges team, of the outcome.
- 8.23 If the secretary of state confirms the CPO, the council's legal consultant will prepare a "notice of confirmation" for service on all parties, for display on site and for press publication. This notice contains provision for any person to appeal to the high court against the secretary of state's decision to confirm the CPO. The appeal must be lodged within 6 weeks and can only be made on a point of law or a defect in procedure. At the end of the 6 week period the council's legal consultant will establish from the high court whether an appeal has been made and, if not, will seek instructions.
- 8.24 A confirmed CPO is operative for 3 years from the date the confirmation notice appeared in a local paper. The council's capital budget remains committed until the council either acquire an asset or a decision is taken not to continue.
- 8.25 If the council gave an undertaking during the inquiry, not to implement the CPO for a defined period it will be necessary to monitor any refurbishment works being carried out throughout this period.
- 8.26 If no undertaking was given, or at the end of the undertaking period refurbishment works are not completed, the procedure for implementing the CPO and taking possession of the property can commence.
- 8.27 If an owner objects but then comes to an agreement with the council to, for example, redevelop the property, it may be possible to enter into an undertaking. An undertaking is where the owner agrees to withdraw his objection (allowing the CPO to be confirmed as an unopposed order) and the council undertakes not to action it, provided the owner carries out specified works within an agreed timetable. If the undertaking is broken the council is then in a position to enforce the CPO.



## **CPO confirmation and next steps**

### **9. Notice to Treat/Notice to Entry**

- 9.1 CPOs must be implemented within 3 years. The council has two means available to gain possession of the property; these are the notice to treat/notice of entry procedure and the general vesting declaration procedure.
- 9.2 The Housing and Planning Act 2016 increased the notice period for taking possession using the notice to treat and notice of entry procedure from 14 days to 3 months. However, it does not give the council ownership and compensation claims can take up to 2 years. Until the compensation is settled the council has possession of the property, but not legal title.
- 9.3 Senior Officers will decide which option is exercised. The council's legal consultant is then instructed by senior managers.

### **10. General Vesting Declaration**

- 10.1 The general vesting declaration (GVD) procedure gives the council possession and ownership in 3 to 4 months.
- 10.2 The GVD process is dealt with by the council's legal consultant and involves the following;
- serving a statement and erecting a site notice concerning the GVD on those with an interest in the land (the '1st notice'). The 1<sup>st</sup> notice can be combined with the confirmation notice referred to earlier. Overall the time period under the GVD procedure will remain the same;
  - publication of a statement concerning GVD in the local press; and
  - the making of the GVD and Notice of Making ("the 2<sup>nd</sup> Notice") can be made once the confirmation notice has appeared in a local paper. However due to the provisions of the Housing and Planning Act 2016 the title will not vest in the council until 3 months after the 2<sup>nd</sup> Notice has been served.
- 10.3 A report will be presented to the committee that originally approved the CPO process to 'recommend' to council to proceed with the GVD, once the order has been confirmed.
- 10.4 The residential property or land will be vested by the council, entitling the council to possession. The GVD will give good title to the land even though compensation has not been settled and may still have to be determined by the Upper Tribunal (Lands Chamber).
- 10.5 Arrangements for the council to take possession of a property or land following the GVD should be made immediately after the 2<sup>nd</sup> notice has been served. The arrangements must include the following elements, which should all be confirmed in writing:

- a council representative must attend the property at the time and date possession is being taken.
- arrangements should be made for a locksmith to attend in case a forced entry is necessary and to secure the property afterwards;
- a valuer shall be engaged to attend the property at the appointed time and date to prepare a schedule of condition recording the state of repair;
- The owner shall be told that officers authorised by the council will be taking possession at the appointed time and date. The owner should be invited to attend to hand over keys and agree a schedule of condition with the council's valuer;
- The council's finance team are informed and the property is added to the council's asset register;
- The Principal Property Manager will provide the finance team with an independent valuation of the property at registration and arrange for the property to be insured from the acquisition date.

10.6 If the owner or any other person prevents access, officers of the council shall abandon the exercise. Legal services must be informed immediately and instructed to prepare a sheriff's warrant for possession.

## **11. Unknown Land/Property Owner compensation etc.**

11.1 **Section 10(3) of the Compulsory Purchase (Vesting Declarations) Act 1981** provides a period of 6 years (from the vesting date) for an ex owner in which to either agree the compensation or refer the matter to the Upper Tribunal (Lands Chamber) for determination.

11.2 The time runs from the time when the person knew, or could reasonably be expected to have known, of the vesting. Therefore as long as the various statutory notices had been erected/advertised it can be argued that even an unknown owner ought reasonably to have been aware of what was going on.

11.3 If someone does claim the compensation in the 6 years they will be entitled to the market value of the property at the time title was vested by the council, together with some other elements of compensation.

11.4 The amount the council vested the property for will be its starting point in seeking to settle the market value element of the compensation. An owner of a property acquired through a CPO is entitled to:

- the market value at the time title is vested by the council;
- a basic loss payment of 7.5% of market value (unless certain statutory notices have been served in respect of the property and they weren't complied with at the date the CPO was confirmed);
- an occupier's loss payment of 2.5% of market value if the property was occupied by the owner (again this can be excluded by certain types of statutory notice);
- a disturbance payment – in the case of an empty property the only disturbance payment that can generally be claimed is if the ex-owner acquires another investment property within 12 months. In these circumstances the ex-owner can claim the legal and other costs

associated with the purchase of the replacement property. However the council might also compensate the ex-owner for any removal costs or clearing the property; and

- reasonable surveyor's fees in connection with the negotiation of the compensation.

11.5 The council's legal consultant must be notified as soon as an owner comes forward with a compensation claim, being responsible for confirming, legally, that this person owned the property in question.

11.6 The relevant officer in agreement with the Principal Property Manager will appoint a property agent to deal with the negotiations of compensation with the ex-owner.

11.7 It is therefore necessary for the compensation amount of such a property to be committed and available as a provision within the accounts for 6 years after the vesting date.

## **12. Disposal**

12.1 Senior Managers will decide on a property by property basis, the best way to dispose of each property or vacant site acquired by CPO. They will also decide on any appropriate covenants to include in any sale documentation.

12.2 To maintain and enhance the integrity of the council's CPO policy it is important that properties are sold, refurbished and returned to use or developed in line with the council's proposals as quickly as possible.

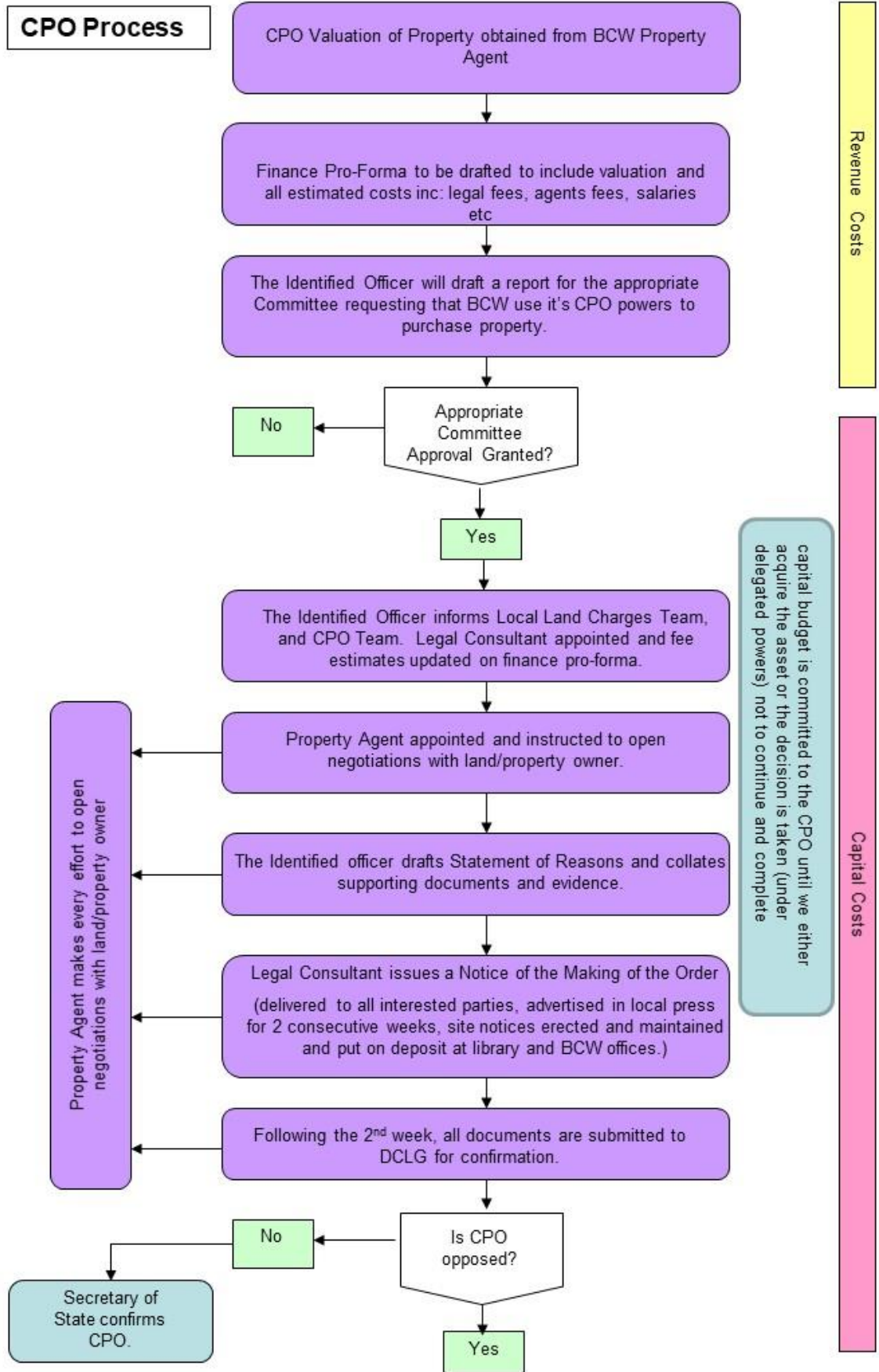
12.3 The date that ownership of a property is vested in the council, or the date of possession in the case of the notice to treat and notice of entry, is significant for the settlement of CPO compensation and the following factors need to be considered:

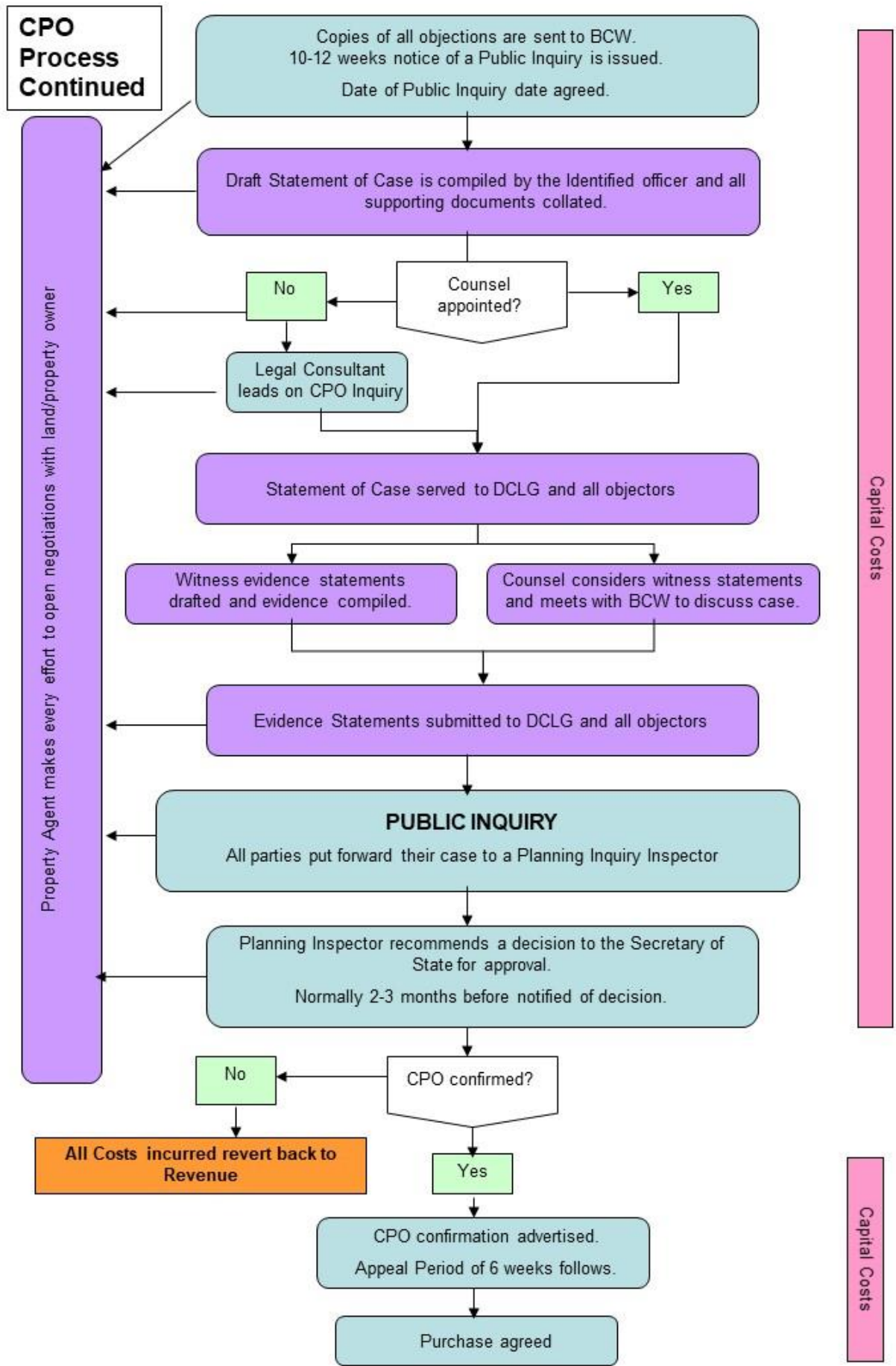
- the date of vesting/possession is the valuation date for assessing value of the land;
- interest on compensation agreed or assessed runs from the date of vesting/possession;
- immediately after the date of vesting/possession the dispossessed owner can make a claim on the council for an advance compensation payment of up to 90% of the council's valuation. Any claim does not signify acceptance of the council's valuation. In practice claims for advance payments are not common.

12.4 The council is responsible for the conduct of negotiations for settlement of compensation. They must ensure that every effort is made over a reasonable period to settle compensation by agreement. If no agreement is reached, either party can refer the matter to the Upper Tribunal (Lands Chamber) for determination. Once a case has been referred to the Upper Tribunal (Lands Chamber) a hearing date will be fixed, although there are procedures for dealing with the case without a hearing.

- 12.5 The time between making a reference to the Upper Tribunal (Lands Chamber) and a hearing date can be 18 months to 2 years. At the hearing each side gives evidence about the level of compensation that could be assessed. The Tribunal generally gives its decision after the conclusion of the hearing.
- 12.6 If compensation is not agreed or referred to the Upper Tribunal (Lands Chamber) within 6 years of the vesting date (under a GVD) it becomes statute barred.
- 12.7 When compensation is paid over to an ex-owner of a CPO'd property it is possible to deduct from the sum any debts due to the council by that person if this agreed with the claimant.

13.





## 14. Glossary

<b>Compulsory Purchase Order (CPO)</b>	A forced sale of a property to the council authorised by the Secretary of State.
<b>Confirmed CPO</b>	A CPO authorised by the Secretary of State.
<b>CPO compensation</b>	The purchase price paid by the council together with Home Loss and Disturbance payments (if applicable) and surveyors' and legal costs.
<b>Empty Property Strategy</b>	A range of policies adopted by the council designed to encourage owners of empty properties to return them to residential use.
<b>General Vesting Declaration</b>	A method by which confirmed CPO is implemented. This method does give the council possession and ownership of the property.
<b>Guidance on Compulsory Purchase Process and The Critchel Down Rules</b>	CPO guidance document issued by the government.
<b>Notice of Confirmation</b>	Notice prepared by the council's solicitor containing the provision to appeal CPO, once the CPO is confirmed by the Secretary of State.
<b>Notice to Treat/ Notice of Entry</b>	A method by which a confirmed CPO is implemented. This method does not give the council possession and ownership of the property.
<b>Office Copy Entries</b>	A document available from the Land Registry which sets out ownership details of a property.
<b>Order Map</b>	A map based on the ordnance survey that shows the precise extent of land and buildings subject to CPO.
<b>Paragraph 51 of the National Planning Policy Framework</b>	Encourages local authorities to bring empty homes back into use, using their CPO powers.
<b>Planning Act 1990 (as amended)</b>	CPOs for planning purposes are made and authorised.

<b>Private Sector Housing Strategy</b>	A range of policies adopted by the council to achieve improvements in the condition of the private sector housing in Wellingborough.
<b>Public Inquiry</b>	A set of rules which govern the procedure, conduct and timescales relating to Public Inquiries.
<b>Section 17, Housing Act 1985</b>	The main statutory provision by which CPOs for housing purposes are made and authorised.
<b>Section 226(1)(a) Town and Country Planning Act 1990 (as amended)</b>	The main statutory provision by which CPOs for planning purposes are made and authorised.
<b>Section 226(1)(b) Town and Country</b>	The statutory provision by which
<b>Statement of Case</b>	An extended version of the Statement of Reasons.
<b>Statement of Evidence</b>	A detailed presentation of the council's case for CPO supplied to the Public Inquiry by witnesses.
<b>Statement of Reasons</b>	A factual statement advancing the council's reasons for making a CPO.
<b>Upper Chamber</b>	Determines CPO compensation to be paid where agreement cannot be reached between the council and the dispossessed owner.