

Compulsory Purchase and Compensation



Frequently asked questions for **Road Schemes**



Land & Property Services
Seirbhísí Talún agus Maoine



Department of
Finance
An Roinn
Airgeadais
www.finance-nl.gov.uk

1. Who is managing the assessment of my compensation?

Land & Property Services (LPS), will act on behalf of the Department for Infrastructure (Dfi) to assess fair and equitable compensation.

2. Who do I need to speak to?

A Lands Officer from The Department for Infrastructure (Dfi) will be appointed to your case and will deal with any ongoing issues which you need addressed.

3. Can a claimant appoint someone to negotiate on their behalf?

The Department for Infrastructure (Dfi) will pay reasonable fees for an agent to prepare, submit and negotiate your claim for compensation. Land & Property Services (LPS) will negotiate the submitted claim with your appointed agent.

4. Can the claimant appoint other experts to act on their behalf?

The Department for Infrastructure (Dfi) pay reasonable agent fees to prepare and negotiate a claim but any requirement for additional specialists must be agreed with the Department prior to appointment. Dfi will not accept liability for fees incurred that it has not prior-accepted.

5. I am losing land as a result of a road scheme, what accommodation works am I entitled to?

Accommodation works are provided to reduce, where possible, the impact of the scheme on the retained property and lands. A Lands Officer from the Department for Infrastructure (Dfi) or Consultants working on behalf will discuss and agree these with you in advance of the scheme. It should be noted the effect of the agreed works upon market value, if any, will be taken into account by LPS when negotiating the financial compensation due.

6. What is the statutory basis of compensation?

The procedures for assessing compensation are based on what is commonly referred to as the "Compensation Code". This is made up of Acts of Parliament, case law and established practice including The Lands Tribunal and Compensation Act (NI) 1964, the Planning and Land Compensation Act (NI) 1971, the Land Acquisition and Compensation (NI) Order 1973, the Land Compensation (NI) Order 1982 and the Planning Blight (Compensation) (NI) Order 1981.

7. What is the purpose of compensation?

The property owner is entitled to be compensated for their loss. Compensation is based on the principle of equivalence. This means that the claimant should be no worse off in financial terms after the acquisition than they were before. Likewise they should not be any better off. The land or property acquired is valued on the basis of its open market value without any increase or decrease attributable to the scheme of development which underlies the Vesting Order.

8. How is compensation calculated?

Compensation is typically assessed under the following heads of claim

- a. The value of the land taken
- b. Severance and injurious affection: When only part of a property is acquired it will be considered if there is depreciation to any retained lands.

- c. Disturbance: Occupiers of land and property may claim for losses and costs which are a direct result of being disturbed due to the scheme.
- d. Fees: reasonable agent's fees incurred in the preparation and negotiation of a claim, and reasonable solicitor fees for conveyance are normally paid by the Department.

9. Is interest payable on my compensation?

Yes. Statutory interest is payable and will be calculated by the Department for Infrastructure (DfI).

10. What is the relevant date of valuation of my property?

For the purpose of assessing compensation the land or property is valued at the operative date of the Vesting Order. This is one month after the publication of the notice to make the Vesting Order in the press. This is also the date at which ownership legally transfers to The Department for Infrastructure (DfI).

11. How is the value of my land or property assessed?

The value is based upon what the land or property would be expected to achieve if sold on the open market by a willing seller.

12. If I lose my home will I get planning permission to build nearby?

The Department for Infrastructure (DfI) will provide the local Council planning service with details of claimants who will be displaced as a result of a scheme. However, securing planning permission is the responsibility of the claimant as with any other planning matter.

13. My home is being acquired, what compensation am I entitled to?

If you are an owner occupier you are entitled to the value of your home plus reasonable costs and expenses in vacating the property. You are also entitled to reasonable costs in acquiring a replacement property (but not the cost of the property) plus the actual costs of moving into the replacement property. You must keep receipts of expenditure incurred. There is a duty on the claimant to mitigate their loss, so the costs incurred must be proportionate and within reason.

Typical examples of recoverable costs are –

- Removal costs
- Legal fees in acquiring the replacement property
- Stamp Duty Land Tax arising from the acquisition of the new property.
- Surveyor's fees arising from the acquisition.
- Survey fee and costs of the transfer of an existing mortgage or raising a new one.
- Altering soft furnishings and movable fixtures and fittings to fit your new home.
- Disconnection and reconnection of services – telephone, electricity etc...
- Forwarding of post (for a reasonable period)
- Necessary special adaptations at the replacement property

14. I am losing my home, am I entitled to any extra compensation?

If you are a home owner with a freehold or lease with at least three years unexpired, you are entitled to a Home Loss Payment. This is 10% of the market value of the dwelling up to a maximum of £45,000 or a minimum of £4,500. This is paid in addition to the agreed compensation.

15. I am building a new home but I have to move into temporary rented accommodation due to the Department's timescale. Can I claim my rent costs?

Compensation is based on the market value of your property plus the actual expenses incurred in acquiring and moving into your replacement home. Rent for temporary accommodation is not recoverable.

16. My home is being vested and I want to rebuild within the local area, will I be entitled to claim the cost of the rebuild?

No, compensation is based on market value of your existing property at the date of vesting plus reasonable costs of relocation.

17. I am losing my business what compensation am I entitled to?

You are entitled to claim reasonable costs and expenditure that arise as a natural, direct and reasonable consequence of having to relocate your business.

Typical items of recoverable cost for the relocation include:

- a. removal expenses;
- b. legal fees arising from the acquisition of a replacement property;
- c. Stamp Duty Land Tax arising from the acquisition of a replacement property;
- d. surveyors and architects fees arising from the acquisition of a replacement property;
- e. special adaptations to your replacement premises;
- f. temporary loss of profits during the period of the move;
- g. diminution of goodwill following the move (reflected in reduced profits);
- h. depreciation in the value of stock;
- i. notification of new address to customers;
- j. new stocks of stationery due to change of address.

This is not an exhaustive list. The onus is on the claimant to justify their claim so it is of the utmost importance that a detailed record of losses sustained and costs incurred is retained. There is a duty on the claimant to mitigate their loss. If you are a sole trader or run the business with your spouse and are over 60 you may opt for total extinguishment of the business if it has a rateable value not exceeding £19,865.

18. Is there any other entitlement for landowners/ business owners/ tenants?

If you have a qualifying interest you may be entitled to a Loss Payment. A Loss Payment is made up of a basic loss payment which is payable to the owner, and an occupier's loss payment. The basic loss payment is normally assessed at 7.5% of the value of your interest up to a maximum of £75,000. The occupier's loss payment is assessed as 2.5% of the value of your interest up to a maximum of £25,000. As an owner occupier you may be entitled to both. This is paid in addition to the agreed compensation.

19. I have not lost land but I live near the scheme, can I make a claim?

After a road is open for one year a claim may be made for the depreciation in the value of your property due to the use of the completed road. Compensation is limited to the depreciation caused by noise, vibration, smell, fumes, smoke, artificial light and discharge onto the land of any solid or liquid substance.

20. My farm has been split by the road what compensation am I entitled to?

Any adverse impact to your retained lands will be considered under the Severance and Injurious Affection head of claim. Compensation will be based on any reduction in value to the retained lands plus any depreciation to the land caused by the presence of the road and its subsequent use.

21. When will I get paid and is an advance payment possible?

Compensation can normally only be fully assessed and settled following completion of the scheme but a claimant can make a formal application to The Department for Infrastructure (DfI) for an advance payment once the Vesting Order has become operative. Advance payments are made within three months of application and comprise 90% of the agreed compensation or 90% of the Department's estimate of property compensation, based on the information held by Land & Property Services (LPS) at the time of application.

22. I am not happy with the compensation I have been offered, what can I do?

Your agent should prepare a claim for compensation on your behalf, which details losses you unavoidably incur because of the scheme. LPS will discuss the claim with your agent to agree the level of compensation. If agreement cannot be reached between your agent and Land & Property Service (LPS) a reference can be made to the Lands Tribunal for Northern Ireland to assess compensation.

23. I don't have planning permission for my property, will this impact on my compensation?

Any increase in value due to an unlawful use will not be taken into account in compensation. You can apply to your local council planning department for a Certificate of Lawfulness. If your application is successful then your compensation will be assessed accordingly.

24. Will my compensation take account of the development potential of my land?

Compensation is based on existing planning permissions, permitted development and the development potential, if any, in accordance with a development plan. If there is any dispute in relation to the planning permission to be assumed for the purposes of compensation you should request a Certificate of Alternative Development from your local council planning department.

25. My lands are designated within the local area plan as a development land but I farm the land. What is the basis of my compensation?

You are entitled to claim compensation on either the existing use value or the alternative development value, whichever is the greater. You can only claim disturbance if your compensation is based on the existing use value of your interest.

If you wish to discuss the content of this document contact: -
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