

Compulsory Purchase Orders: Legal Issues in Compensation

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MYTH:

We'll get the same amount of money whatever we do....

FACTS:

- Acquiring authorities are not obliged to pay compensation which has not been claimed.
- Many claimants fail to claim all that is due to them.



MYTH:

I should raise the claim in my name as I run the farm.

FACTS:

- Ownership and tenancy interests matter.
- The right to claim lies with the owner of the land at the date of vesting.
- Tenants may separately have a right to claim compensation.
- The right to claim cannot ordinarily be assigned.



MYTH:

The contractors have told me they need access over my land – it's no longer up to me.



FACTS:

- If access rights were acquired by CPO, you should have received notice of this.
- In this situation, access can only be taken for the purposes specified in the CPO, not for anything else.
- Other statutory powers can be used in limited circumstances – if in doubt, ask on what basis access is being taken and seek advice.

MYTH:

Legal and agents' fees will be paid by the acquiring authority.



FACTS:

- The acquiring authority is not obliged to pay all fees to solicitors and agents.
- Fees must be:
 - reasonably and properly incurred
 - relate to the compensation claim
 - proportionate

MYTH:

If things go wrong, I can claim for damage to my land from the contractors.



FACTS:

- Landowners have no legal relationship with the contractors.
- Claims relating to land acquisition lie against the acquiring authority.

MYTH:

There's plenty of time...



FACTS:

- Claims for compensation must be submitted within 6 years' of land-take.
- A Lands Tribunal action is necessary to enforce a claim.

MYTH:

My land has been split in two, I can claim the cost of a bridge.



FACTS:

- The way your claim is presented can make all the difference.
- Double-counting won't be allowed.

MYTH:

Tax losses can't be claimed.



FACTS:

- A tax bill caused by the scheme may be recoverable.
- The availability of tax relief and exemptions will be considered.
- Tax claims are complex – take expert advice.

MYTH:

You must do all you can to minimise your losses.



FACTS:

- The "obligation" to mitigate is not absolute.
- The courts will consider what the "reasonable man" would do in the same circumstances.
- Early communication is often the answer.

MYTH:

My property is blighted by the scheme, I can claim compensation.



FACTS:

- "Blight" has a special legal definition.
- Occasionally an authority can be forced to acquire land for value.
- Once a scheme is underway, blight claims are not relevant – other legal options come in to play.



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