

Compulsory Purchase

June 2019



The National Assembly for Wales is the democratically elected body that represents the interests of Wales and its people, makes laws for Wales, agrees Welsh taxes and holds the Welsh Government to account.

An electronic copy of this document can be found on the National Assembly website: www.assembly.wales/SeneddEIS

Copies of this document can also be obtained in accessible formats including Braille, large print, audio or hard copy from:

Economy, Infrastructure and Skills Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

Tel: **0300 200 6565**

Email: **SeneddEIS@assembly.wales**

Twitter: **@SeneddEIS**

© **National Assembly for Wales Commission Copyright 2019**

The text of this document may be reproduced free of charge in any format or medium providing that it is reproduced accurately and not used in a misleading or derogatory context. The material must be acknowledged as copyright of the National Assembly for Wales Commission and the title of the document specified.

Compulsory Purchase

June 2019



About the Committee

The Committee was established on 28 June 2016. Its remit can be found at: www.assembly.wales/SeneddEIS

Committee Chair:



Russell George AM
Welsh Conservatives
Montgomeryshire

Current Committee membership:



Hefin David AM
Welsh Labour
Caerphilly



Vikki Howells AM
Welsh Labour
Cynon Valley



Jack Sargeant AM
Welsh Labour
Alyn and Deeside



Bethan Sayed AM
Plaid Cymru
South Wales West



Joyce Watson AM
Welsh Labour
Mid and West Wales

The following Members were also members of the Committee during this inquiry.



Mohammad Asghar AM
Welsh Conservatives
South Wales East



Adam Price AM
Plaid Cymru
Carmarthen East and Dinefwr



David J Rowlands AM
Brexit Party
South Wales East



Lee Waters AM
Welsh Labour
Llanelli

Contents

Chair’s foreword	5
Recommendations	7
1. Background to the inquiry	9
Terms of reference	9
Evidence gathering	9
2. Compulsory Purchase Orders	11
Powers	11
Use of Compulsory Purchase Orders by local authorities	11
Compulsory Purchase Order process	12
Compensation	15
CPOs and devolution	16
Current Welsh Government proposals – infrastructure consenting and CPOs	16
Previous Committee work	17
Town centre regeneration	17
Active travel	19
3. Skills for effective use of CPOs	22

Chair's foreword

During the course of the Committee's work we have repeatedly heard about the difficulty of using Compulsory Purchase Orders.

When we reviewed the Welsh Government's work on town centre redevelopment, we heard how derelict or neglected buildings could have a negative impact on a place. And that while using CPOs seemed a natural solution to the problem, they seldom were.

When we turned our attention to active travel, we heard again about the problems that can arise when a walking or cycling route has to divert because a landowner won't allow the land to be used. This can leave routes with gaps, which make them less attractive to users.

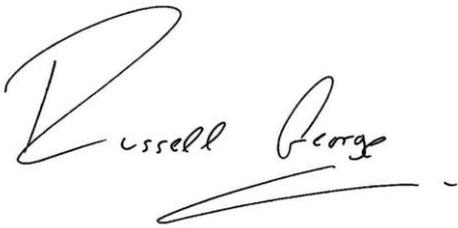
So as a committee, we asked what could be done? Everyone knows that public bodies have the power – through CPOs – to make things happen. To take over the derelict building; to acquire the slice of land that joins A to B. So what are the barriers to using them? And what can be done to boost confidence in using them?

We are grateful to all who responded to our consultation to share their expertise and experience. Their message was very clear: we need new guidance that makes it clear how and when to use a CPO, and a central “checking facility” to remove risk from applications.

The Welsh Government's White Paper proposals for a new “Welsh Infrastructure Consent” (WIC) will require primary legislation that will not be forthcoming in this Fifth Assembly term. In the meantime, the Committee wants to see Welsh Government put a strong focus on making changes that are possible with existing powers. This would involve: streamlining the current process; prioritising its efforts to share expertise and best practice; and building confidence in use of CPO's.

We also want to see Welsh Government promoting a more effective dispute resolution mechanism – for example RICS are currently considering proposals for alternative dispute resolution for CPO-related disputes – so that disagreements can potentially be resolved quickly and cheaply, without lengthy and often costly legal wrangling.

Forcing someone to give up their land is not a step that should ever be taken lightly. But when it is necessary, it shouldn't be impossible, and should be done in a way that is fair to all parties. I hope our report will contribute to making a process that meets all these objectives.

A handwritten signature in black ink that reads "Russell George". The signature is written in a cursive style with a large, sweeping initial 'R' and a long horizontal flourish at the end.

Russell George AM
Chair, Economy, Infrastructure and Skills Committee.

Recommendations

Recommendation 1. The Welsh Government should work with a wide range of users to ensure that its forthcoming revision to the circular on Compulsory Purchase Orders provides clear guidance to all who might wish to use, or contest a CPO..... Page 12

Recommendation 2. Welsh Government’s updated circular on Compulsory Purchase Orders should provide a clear steer to local authorities on the benefits of the Compulsory Purchase Order process and Welsh Government’s commitment to its use as one important tool to resolve issues relating to derelict property and land and barriers to infrastructure development. The circular should actively challenge negative perceptions of the CPO process, and point local authorities to sources of advice and support to build the confidence of councillors and officers in pursuing it as an option..... Page 12

Recommendation 3. The Welsh Government should emulate the Scottish Government’s pre-checking service for draft CPOs by establishing a small expert unit within Welsh Government to conduct timely, enhanced technical pre-checks. The service should be set up in such a way that it is effective in streamlining the process for Acquiring Authorities to formally submit CPOs to Welsh Government for confirmation. It should also be entirely separate from any advice-giving function, to avoid any public perception of prejudicing the process of confirming CPOs..... Page 15

Recommendation 4. In the case of dispute, the Welsh Government should encourage both sides to engage in dispute resolution in an effort to avoid a potentially expensive journey through the legal system..... Page 15

Recommendation 5. In addition to publishing its updated Circular, Welsh Government should prioritise the active promotion of other measures, such as detailed guidance, training and seminars, to improve confidence and understanding amongst local authorities and dispel myths about the CPO process..... Page 19

Recommendation 6. Welsh Government should work with local authorities and other stakeholders to find ways to “unblock” the process of using CPOs to develop cycle routes. This should include a) updating active travel guidance to emphasise the benefits of choosing the most appropriate route which involves the use of CPO powers over a lower grade alternative, and b) using its updated Circular and other activities to build confidence within local authorities about using the CPO

procedure to develop walking and cycling routes, and to share expertise and best practice.....Page 20

Recommendation 7. A central unit should be established in Wales as soon as possible to act as a shared resource of expertise on CPOs for Acquiring Authorities, in particular local authorities. It should provide advice, mentoring and support to Acquiring Authorities. Welsh Government should consider whether this requires a strengthening of existing expertise within the civil service (separate from those responsible for confirming CPOs or providing any technical check) or the establishment of a separate unit within local government, and set out clearly its rationale for the approach taken. Page 23

1. Background to the inquiry

1. The Committee agreed to undertake an inquiry into the use of Compulsory Purchase Orders (CPOs) in Wales at their meeting on 11 July 2018.
2. Issues around the use of CPOs arose in two earlier inquiries: the Committee's progress update on town centre regeneration; and the post-legislative scrutiny of the Active Travel Act.
3. As a consequence, Members were keen to look in greater detail at the issues, and what might be done to address them.

Terms of reference

4. The Committee's terms of reference were to consider the following:
 - Are there any barriers to the use of compulsory purchase powers? If so, how can they be overcome?
 - Are there any specific barriers to the use of compulsory purchase to:
 - regenerate town centres; and/or
 - develop opportunities for active travel?
 - Do local authorities have enough resources and the right skills in place to use their compulsory purchase powers effectively?
 - Views on the Welsh Government's proposals for streamlining the Compulsory Purchase Order process, as set out in its consultation on infrastructure consenting.¹

Evidence gathering

5. The Committee consultation ran from Wednesday, 1 August 2018 to Wednesday, 12 September 2018 and received seven responses.²
6. The Committee took oral evidence on 11 October 2018 from Philip Meade (Davis Meade Property Consultants), Paul Wheeldon (County Surveyors Society

¹ <https://gov.wales/sites/default/files/consultations/2018-04/180430-changes-to-the-approval-of-infrastructure-development.pdf>

² Responses can be seen at

<http://senedd.assembly.wales/mgConsultationDisplay.aspx?id=313&RPID=1013601697&cp=yes>

Wales), and Dr Roisin Willmott (Royal Town Planning Institute Cymru). A transcript of the session can be found on the Assembly's website.³

³ <http://record.assembly.wales/Committee/5154#A45999>

2. Compulsory Purchase Orders

Powers

7. The legislative landscape in relation to CPOs is complicated. The greatest users of compulsory purchase powers are local authorities, but other statutory bodies who may make CPOs include government departments and major utilities such as water or electricity companies.

8. The general power for local authorities to compulsorily purchase land in their area is set out in the Town and Country Planning Act 1990⁴, as amended by the Planning and Compulsory Purchase Act 2004⁵.

9. While the 1990 Act gives local authorities broad powers to acquire land compulsorily, and is commonly used, compulsory purchase powers also exist in other pieces of legislation and are often specialised to the purpose for which an authority is seeking to acquire the land. For example, the acquisition of a dilapidated house could be made using powers contained in housing legislation. There are also powers specific to highways, education, public libraries and museums, and derelict land.

Use of Compulsory Purchase Orders by local authorities

10. The Town and Country Planning Act 1990⁶ sets out the circumstances under which compulsory purchase by a local authority may be authorised as follows:

(a) if the authority think that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land;

(b) which is required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated.

11. These powers must not be exercised by local authorities unless they think that the “development, re-development or improvement” is likely to contribute to the economic, social or environmental well-being of the area. Powers must only be used if it is in the public interest to do so.

⁴ www.legislation.gov.uk/ukpga/1990/8/contents

⁵ www.legislation.gov.uk/ukpga/2004/5/contents

⁶ Section 226

12. A Revised Circular on Compulsory Purchase Orders (14(2)/2004),⁷ issued in March 2004 by the then Welsh Assembly Government, provides guidance to local authorities on the use of CPOs. A number of appendices to this circular set out some of the most common powers and relevant factors taken into consideration by the confirming authority (the Welsh Government).

13. This circular advises that local authorities should use specific powers available for the purpose in mind and only general powers where unavoidable. The power used will in turn influence the factors which the Welsh Government takes into account in determining confirmation.

14. This guidance is now over 14 years old, and the world has changed enormously in that time. There is a widespread consensus that the guidance is in urgent need of updating. The Welsh Government has acknowledged this and is working on an update which it is hoped will be published soon.

Recommendation 1. The Welsh Government should work with a wide range of users to ensure that its forthcoming revision to the circular on Compulsory Purchase Orders provides clear guidance to all who might wish to use, or contest a CPO.

Recommendation 2. Welsh Government's updated circular on Compulsory Purchase Orders should provide a clear steer to local authorities on the benefits of the Compulsory Purchase Order process and Welsh Government's commitment to its use as one important tool to resolve issues relating to derelict property and land and barriers to infrastructure development. The circular should actively challenge negative perceptions of the CPO process, and point local authorities to sources of advice and support to build the confidence of councillors and officers in pursuing it as an option.

Compulsory Purchase Order process

15. Before using CPO powers, the Acquiring Authority is expected to attempt to acquire the land by agreement through negotiation with the land owner. If an agreement cannot be reached, and a CPO is required, there is a formal process to follow.

16. Section 12 of the Acquisition of Land Act 1981⁸ requires the Acquiring Authority to send a notice of the CPO to every owner, lessee and occupier (except

⁷ [https://gweddill.gov.wales/about/open-government/publications-catalogue/circular/circulars04/NAFWC14\(2\)2004?lang=en](https://gweddill.gov.wales/about/open-government/publications-catalogue/circular/circulars04/NAFWC14(2)2004?lang=en)

⁸ www.legislation.gov.uk/ukpga/1981/67/contents

tenants for a period of a month or less) of any land comprised in the order. The notice invites objections to be submitted to the confirming authority, the Welsh Government.

17. Section 13(3) of the 1981 Act enables the Welsh Government to require objectors to state their grounds of objection in writing. Objections must reach the Welsh Government within the period specified in the notice. There is no specific format for the objection other than it must be in writing.

18. If objections are received and not withdrawn following negotiations with the Acquiring Authority, the Welsh Government will appoint an inspector from the Planning Inspectorate. Either a public local inquiry will be arranged or, where all the remaining objectors agree to it, the objections can be considered through a written representations procedure.

19. After considering the inspector's report the Welsh Government will decide to confirm, modify or reject the CPO.

20. The Committee heard evidence that the process can be long and bureaucratic – particularly in cases where there are appeals against the original decision. However, the Committee takes the view that it is right that a process of doing something as drastic as taking away someone's property and/or land should contain checks and balances.

21. That said, there are a range of measures which could ensure the process moves more slickly. These include creating an expert group to conduct a technical pre-check of applications to ensure they have been correctly made; and having an effective mediation/dispute resolution service, to avoid drawn out and expensive legal disputes.

22. The Scottish Government has developed a model “with a view to identifying potential legal and procedural issues which may adversely impact on any submitted CPO”. Its pre-checking service⁹ acts as follows:

- Offers a technical assessment of any Draft CPO and aims to provide feedback on any Draft Order within 30 days of receipt. The aim of these checks is to reduce subsequent delays and the period of uncertainty for people affected;
- The technical check allows the Scottish Government to carry out a broad ranging review of the technicalities of the draft CPO and

⁹ www.gov.scot/publications/confirming-compulsory-purchase-orders-procedural-guidance/

supporting documents with a view to identifying potential legal and procedural issues which may adversely impact on any submitted CPO; and

- The technical check does not look at the merits of a draft CPO or its justification – it is limited mainly to consideration of the CPO with reference to the relevant Acts, regulations and procedural matters.

23. Key questions asked in the technical pre-check are:

- Has the Authority justified which powers it intends to use to compulsorily purchase all of the land or interests in the land or property needed to enable the project to proceed?
- Is the proposed project included in a relevant plan or strategy, such as a Local Development Plan, housing plan, or community plan? If not has it been explained why not?
- What engagement has there been with land owners to find an alternative resolution? If there hasn't been any, has this been explained? and
- Is the necessary finance available to fully compensate landowners (including not just the land acquisition cost, but compensation for severance, injurious affection, disturbance and reasonable professional fees where applicable)?

24. Following the pre-check, Scottish Government sends the response back to the Acquiring Authority as soon as possible. and wherever possible within one month from receiving the technical check request. The response should include any procedural observations made which could cause the CPO to be rejected at a later stage. On completion of the technical check, the Acquiring Authority is then expected to make any necessary corrections and take any additional steps identified, before resolving and formally submitting the CPO to the Scottish Government for confirmation.

25. It is important that in Scotland there is a clear separation between the Scottish Government's technical checking service, which does not make any observations as to the justification for using the CPO process in a particular case, and the policy advice function. This latter function works with local authorities to provide advice to lawyers and officers, and to build confidence in local authorities about using the CPO process to deal with intractable problems relating to, for example derelict properties or empty homes.

26. The Scottish Government also publishes all completed CPO case work, serving to dispel myths about the time it takes for a CPO to be confirmed, as some can be completed in as little as 28 days. This provides reassurances to officers and lawyers involved in processing CPOs about the merits of the approach.

Recommendation 3. The Welsh Government should emulate the Scottish Government's pre-checking service for draft CPOs by establishing a small expert unit within Welsh Government to conduct timely, enhanced technical pre-checks. The service should be set up in such a way that it is effective in streamlining the process for Acquiring Authorities to formally submit CPOs to Welsh Government for confirmation. It should also be entirely separate from any advice-giving function, to avoid any public perception of prejudicing the process of confirming CPOs.

Compensation

27. The Land Compensation Act 1961¹⁰ governs the method of assessing the amount of financial compensation when compulsory acquisition is used. The Act sets out the basic rules for assessing compensation which seek to provide the amount the land owner would have received had they decided to sell the land on the open market without the development resulting in the CPO being proposed.

28. If no agreement can be reached, matters of compensation are to be referred to, and determined by, the Upper Tribunal of the Lands Chamber.¹¹

29. The Royal Institute of Chartered Surveyors (RICS) made a compelling case that many cases could avoid tribunals and appeals by employing a mitigation service. RICS has done some work on establishing an alternative dispute resolution service for CPO-related disputes, and there is clearly potential for this to provide a low-cost resolution, where both parties are willing to engage with the process.

Recommendation 4. In the case of dispute, the Welsh Government should encourage both sides to engage in dispute resolution in an effort to avoid a potentially expensive journey through the legal system.

¹⁰ www.legislation.gov.uk/ukpga/Eliz2/9-10/33/contents

¹¹ www.gov.uk/appeal-upper-tribunal-lands

CPOs and devolution

30. Under the Government of Wales Act 2006,¹² and the previous conferred powers model of devolution, compulsory purchase and land compensation were “silent subjects”. The National Assembly for Wales could legislate on a silent subject provided the provision “fairly and realistically” related to a devolved subject. Therefore the Assembly could legislate in relation to compulsory purchase and land compensation to the extent that the provision related to the acquisition of land for a devolved purpose, for example for roads.

31. The Wales Act 2017¹³ introduced a “reserved powers” model of devolution. It sets out the areas that are outside of the Assembly’s legislative competence and therefore “reserved”, leaving everything else devolved to Wales.

32. The Wales Bill, as originally introduced, would have reserved the “compulsory purchase of land” transferring current powers to the UK Parliament in terms of both compulsory purchase and land compensation. However, following amendments made to the Bill in the House of Lords, the scope of the reservation (number 185) was narrowed leaving compulsory purchase devolved to Wales. Powers around compensation however are reserved.

Current Welsh Government proposals – infrastructure consenting and CPOs

33. The Welsh Government has consulted on proposals for a new infrastructure consenting process which would incorporate CPOs associated with major infrastructure projects into the main consent for the project. The consultation closed on 23 July 2018¹⁴ and a summary of responses has been published¹⁵.

34. The consultation proposed streamlining the process for confirming CPOs by delegating this responsibility to planning inspectors in certain circumstances. Whereas currently the confirming authority is the Welsh Government, the consultation set out, and sought views on, a proposed criterion to be used for delegating the confirmation of non-Ministerial CPOs for decision by inspectors. The criteria proposed in the consultation for delegation of a decision by an inspector is as follows:

¹² www.legislation.gov.uk/ukpga/2006/32/contents

¹³ www.legislation.gov.uk/ukpga/2017/4/contents

¹⁴ <https://gov.wales/changes-approval-infrastructure-development>

¹⁵ <https://gov.wales/sites/default/files/consultations/2018-11/infrastructure-consultation-summary-of-responses.pdf>

35. The Welsh Ministers will consider the suitability of the following types of non-Ministerial compulsory purchase orders (CPOs), made under different enabling powers, to be delegated to an Inspector for a decision on the confirmation of:

- CPOs made under the Highways Act 1980;
- CPOs made under the Housing Act 1985;
- CPOs made under the Planning (Listed Building and Conservation Area) Act 1990; and
- CPOs made under the Town and Country Planning Act 1990.

36. The consultation outlined that these powers would be used selectively and each case would be considered on an individual basis.

37. The consultation also made proposals in relation to awarding costs. Currently, successful objectors to a CPO, or unsuccessful objectors where the Acquiring Authority has behaved unreasonably, must appear at an inquiry to be awarded costs. In the consultation, the Welsh Government states:

“... we propose to broaden, via primary legislation, the power to award costs in Wales.”

38. It should be noted that the award of costs is different to land compensation, which as outlined is reserved to the UK Government.

39. The main proposals in the White Paper for a new “Welsh Infrastructure Consent” (WIC) will require primary legislation that will not be forthcoming in the current Fifth Assembly term. In the absence of primary legislative changes the Committee would like to see Welsh Government put a strong focus on effecting those changes to the CPO process that are possible under the powers afforded by the Wales Act 2017, by streamlining the current process, and in particular prioritising its efforts to share expertise and best practice, and build confidence in use of the current CPO process.

Previous Committee work

Town centre regeneration

40. The Fourth Assembly’s Enterprise and Business Committee undertook an inquiry into town centre regeneration¹⁶ in 2012. In December 2017 the EIS

¹⁶ <http://senedd.assembly.wales/mglIssueHistoryHome.aspx?IId=1522>

Committee revisited this work in a scrutiny session with the Minister for Housing and Regeneration, Rebecca Evans, entitled Town Centre Regeneration: Five Years On¹⁷. As part of this session, when asked about the use of CPOs and whether the Welsh Government could do more to encourage their use for town centre regeneration, the Welsh Government's Head of Planning stated:

“we are looking at whether there are things we need to do in relation to compulsory purchase. So, there are opportunities there. I think quite a lot of the problems are around the skills that local authorities and others have, actually, to use compulsory purchase. It's not something that many authorities use very often, so there aren't many people who have those skills. (...) where there's the expertise and the will, I think the tools are there, but there's probably more we need to do in terms of supporting those skills locally.”¹⁸

41. Following this session, the Committee wrote to the Minister saying:

“We believe the Welsh Government needs to ensure that Compulsory Purchase Orders (CPO) can be used effectively and that the sharing of knowledge and skills in using CPOs is being encouraged and supported across local authorities. The Committee has agreed that it will pursue this issue further through its work programme.”¹⁹

42. The evidence the Committee has received in this inquiry has served to deepen the conviction that more must be done to foster the sharing of knowledge and skills.

43. In her response, the then Minister noted that the Welsh Government “intends to develop a package of measures to improve confidence and understanding amongst Local Planning Authorities on the use of compulsory purchase powers”.²⁰ This would include updating “Circular 14/2004 on Compulsory Purchase Orders”, and working with partners to disseminate best practice.

44. Although the CPO process can necessarily be quite complicated and time-consuming, for both professionals using the procedure and for claimants seeking compensation, as the RTPI pointed out to the Committee: “...CPO can be a very

¹⁷ <http://senedd.assembly.wales/mgIssueHistoryHome.aspx?IId=20692>

¹⁸ Paragraph 33, 7 December 2017

¹⁹ <http://senedd.assembly.wales/documents/s71935/Report%20PDF%20170KB.pdf>

²⁰

<http://senedd.assembly.wales/documents/s73930/Welsh%20Government%20response%20PDF%20364KB.pdf>

good tool, or the principle of CPO is a very good tool, for bringing forward public interest projects”.²¹

Recommendation 5. In addition to publishing its updated Circular, Welsh Government should prioritise the active promotion of other measures, such as detailed guidance, training and seminars, to improve confidence and understanding amongst local authorities and dispel myths about the CPO process.

Active travel

45. The Active Travel (Wales) Act 2013²² requires local authorities to map and continuously improve active travel routes in their area based on an Integrated Network Map setting out a 15 year rolling plan.

46. During its scrutiny of the then Active Travel (Wales) Bill, the Fourth Assembly's Enterprise and Business Committee received evidence from Sustrans saying that:

“without effective support to ensure that land is made available, key sections of route which could make every day journeys viable could take years to be delivered, or not be delivered at all.”²³

47. Sustrans suggested that the CPO process is a block on active travel route development since in the case of walking and cycling routes, objections to CPOs may be made on the grounds that there are one or more alternative, albeit lower-grade, route options, leaving local authorities vulnerable to challenge. As a result, local authorities are said to be discouraged from beginning a lengthy and costly CPO process.

48. Responding to the then Active Travel (Wales) Bill white paper consultation, Sustrans stated:

“The majority of local authorities are...reluctant to invoke Compulsory Purchase Order powers for active travel infrastructure due to the assumption that any inspector will find alternative options are available. The process can also be very lengthy, taking upwards of two years and leading to unnecessary delays. Greater guidance and support is needed for local authorities on the tools they can use in the development of their walking and cycling networks. Changes should also be made to

²¹ Economy, Infrastructure and Skills Committee, 11 October 2018, para 26

²² www.legislation.gov.uk/anaw/2013/7/contents

²³ Written evidence

the current process for implementing Compulsory Purchase Orders, enabling local authorities to use these Orders in the creation of traffic-free routes. Specifically, the process for implementing Compulsory Purchase Orders for walking and cycling routes should only require local authorities to define a single option through feasibility studies and, provided there is a reasoned approach for arriving at a preferred option, this should be able to be determined favourably via a Compulsory Purchase Order process without undue risk.”²⁴

49. In 2002 Sustrans produced a guide²⁵ for those involved in negotiating new cycle paths which addressed the issue of acquiring land rights. The guide made the distinction between acquiring the right for walkers and cyclists to use the land as opposed to acquiring the rights of ownership. The guide states that:

“A local authority could decide to use CPO powers for cycle paths, although it would need to weigh up the costs of the inquiry and the likelihood of success. The relevance to Sustrans negotiations could arise when most of a route has been negotiated successfully but one or two landowners remain opposed.”

50. The guide suggests leasehold rights could be negotiated (which land owners may be more open to), as an alternative approach to CPOs, which are for the freehold of the land.

51. Sustrans suggested that most local authorities “lack specific knowledge of applying Compulsory Purchase Orders in relation to the Active Travel Act”.²⁶ In written evidence the organisation stated that “previous examples are very limited, particularly in Wales”, and there is a sense that “authorities have to undertake bespoke approaches to the process each time, given the variable nature of active travel routes”.²⁷

Recommendation 6. Welsh Government should work with local authorities and other stakeholders to find ways to “unblock” the process of using CPOs to develop cycle routes. This should include a) updating active travel guidance to emphasise the benefits of choosing the most appropriate route which involves the use of CPO powers over a lower grade alternative, and b) using its updated

²⁴

www.sustrans.org.uk/sites/default/files/images/files/0812_Active_Travel_%28Wales%29_Bill_Sustrans_response.pdf

²⁵ www.sustrans.org.uk/sites/default/files/documents/negotiators_guide_nov_2002.pdf

²⁶ Written evidence

²⁷ Written evidence

Circular and other activities to build confidence within local authorities about using the CPO procedure to develop walking and cycling routes, and to share expertise and best practice.

3. Skills for effective use of CPOs

52. In order to use CPOs effectively the evidence suggests a need for resources, experience and knowledge to be shared more widely, and for expertise to be available to all.

53. Evidence from consultation responses largely suggested that the most significant barrier of regular use of CPOs is a lack of knowledge, resources, and recent experience of the process.

54. County Surveyors Society Wales stated:

“Local Authorities have the right skills for the task and the process is normally led by solicitors and experts within property (valuation), planning and highway teams. However expertise within these sections has diminished over the years and remaining staff are under more and more pressure to focus on day to day statutory functions.”

55. In oral evidence, the RTPI told the Committee that while expertise exists within local government and other public authorities with CPO powers, it is the regular experience of using this expertise in a CPO context which they are lacking.²⁸ Huw Williams of Geldards similarly stated that a lack of familiarity with the CPO process translates to reduced confidence in using their powers.²⁹

56. The Committee also heard that the current level of expertise was expected to diminish even more as experienced professionals reach retirement and are not replaced:

“The age of people within highway schemes is about 50 to 55. We'll be losing another team of expertise within the next five, six or eight years, and we haven't got the young people coming through. So, there's this chasm in the middle. That is where the expertise needs to be now for the future.”³⁰

57. Respondents told the Committee they would therefore welcome a central unit that could give expert advice, mentoring and support to local authorities. Paul Wheeldon of the County Surveyors' Society Wales said:

²⁸ Economy, Infrastructure and Skills Committee, 11 October 2018, para 82

²⁹ Written evidence

³⁰ Economy, Infrastructure and Skills Committee, 11 October 2018, para 88

“...If there is something like that that is in Welsh Government—that there is a team of expertise that we can go to and we can use that expertise— local authorities would put together the CPO and then pass it to Welsh Government, Welsh Government would assist with ensuring that all of the i's and t's were dotted and crossed, and it could progress at a faster pace because everything was in order; I would welcome that.”³¹

58. The witnesses all agreed that this central unit should be considered as a shared resource for knowledge, skills and experience across Acquiring Authorities.

Recommendation 7. A central unit should be established in Wales as soon as possible to act as a shared resource of expertise on CPOs for Acquiring Authorities, in particular local authorities. It should provide advice, mentoring and support to Acquiring Authorities. Welsh Government should consider whether this requires a strengthening of existing expertise within the civil service (separate from those responsible for confirming CPOs or providing any technical check) or the establishment of a separate unit within local government, and set out clearly its rationale for the approach taken.

³¹ Economy, Infrastructure and Skills Committee, 11 October 2018, para 87