

Southampton City Council

DRAFT Acquisition and Compulsory Purchase Orders Policy

Acquisition of property from freeholders, leaseholders and private tenants



Southampton City Council
Buy-Back and Compulsory Purchase Orders:
Guidance for freeholders, leaseholders and private tenants



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1. Purpose

- 1.1. This policy sets out the approach that Southampton City Council will take when the Council needs to acquire a property from a freeholder or leaseholder, or the tenant(s) of a freeholder or leaseholder, for the purpose of carrying out of development, re-development or improvement on or in relation to the land.
- 1.2. Southampton City Council will only seek to acquire land in accordance with legislation, if the development, redevelopment or improvement of the area promotes or improves the economic, social or environmental wellbeing of the area.
- 1.3. Southampton City Council recognises the huge impact any such move may have on resident's lives, especially where the move is not through choice. This policy aims to provide residents with a clear understanding of the general approach to be adopted; what level of compensation (if any) that might be offered; and the practical guidance and support that the council can provide to those affected.

2. Scope

- 2.1. This policy applies to all leaseholders, freeholders, and any tenants of the freeholder or leaseholder, whose homes the council requires to purchase due to a redevelopment scheme or for any other purpose.
- 2.2. The provisions of this policy do not apply to:
 - a) Unauthorised occupants or squatters who are inhabiting a property affected by decommissioning.
 - b) Commercial or industrial property that may be affected by the decommissioning scheme.
 - c) Tenants of Southampton City Council affected by a decommissioning scheme – this is covered in a separate policy.
- 2.3. The policy applies to all Southampton City Council staff who are required to administer arrangements for rehousing, including Tenant Liaison Officers, Allocation Staff, Local Housing Office Staff, as well as any tenants affected by a decommissioning proposal.

3. Legislative Context and other Related Documents

- Housing Act 1985
- Land Compensation Act 1961
- Compulsory Purchase Act 1965
- Land Compensation Act 1973
- Town and Country Planning Act 1990 (as amended by the Planning and Compulsory Purchase Act 2004).
- DCLG Guidance on Compulsory purchase process and The Criche Down Rules for the disposal of surplus land acquired by, or under the threat of, compulsion.
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/472726/151027_Updated_guidance_for_publication_FINAL2.pdf

POLICY STATEMENT

4. Consultation

- 4.1. Owners and residents will be provided with information regarding the proposal to acquire the property as early as possible by the council, in order to allow time to reach an agreement on the acquisition of the property. Southampton City Council will, wherever possible, ensure that any information provided to people living in the same block, scheme or street will be provided simultaneously, or as close to simultaneously as is reasonably possible.
- 4.2. The council will carry out a full and adequate consultation with all owners, residents and other people affected and in particular will comply with its general management functions pursuant to S20, 21 and 27 of the Housing Act 1985.
- 4.3. Once a decision to proceed has been made with the acquisitions of the properties concerned, the first option will be to come to a voluntary agreement with the owners concerned. If voluntary agreement does not prove possible, then the council will pursue a compulsory purchase of the owners/resident's interests in the property.
- 4.4. Where the council is required to pursue a Compulsory Purchase Order, the council will comply with legislative requirements and process.
- 4.5. Property in the process of, or waiting, being decommissioned, with people still living on the affected site, will be provided with reasonable appropriate security measures to keep tenants, residents, and the property itself as safe and secure as is reasonably possible.

5. Acquisition of the property

- 5.1. Southampton City Council will seek to reach a voluntary agreement with leaseholders or freeholders on the value of their property (the amount for which it will be acquired) and the date when the purchase will be completed with vacant possession. The council will notify residents in advance, giving as long a period as possible of the need to move home as is reasonably possible. If a voluntary agreement cannot be reached, Southampton City Council will take appropriate legal action to obtain possession of the property.
- 5.2. Southampton City Council will negotiate with the leaseholder or freeholder of the property to purchase the property under a voluntary agreement at the current open market value (See section 6). If a voluntary agreement cannot be reached, then the council will seek to make a Compulsory Purchase Order (CPO), and the property will be compulsory purchased at market value.
- 5.3. Southampton City Council has powers to use compulsory purchase powers where it is expedient to do so, and will only do so in line with legislation and guidance, and where there is a compelling case in the public interest.
- 5.4. Compulsory purchase is intended as a last resort to secure the assembly of all the land needed for the implementation of projects. Southampton City Council will always seek a voluntary agreement on the acquisition of the land or property with the leaseholder or freeholder in the first instance. However, where appropriate to support and enable the proposed timetable for the project, the council may plan a compulsory purchase

timetable as a contingency measure and initiate formal procedures alongside activity to come to a voluntary agreement.

- 5.5. The council will be the purchaser of the property. It may then dispose of, or sell on, that property to a third party such as a developer undertaking the redevelopment of the site.
- 5.6. If there is an outstanding mortgage or loan secured on the property, then the mortgagee (usually a bank or building society) will be paid off first. If the value of the property is less than the outstanding debt on the mortgage, then none of this money will be paid to the owner. The lender will still have the right to pursue the owner for any monies outstanding even after the payment for the property is made.
- 5.7. The amount paid for the purchase of the property concerned will not affect the amount of home loss or disturbance allowance, or disturbance payments, paid to affected owner-occupiers.

6. Valuation of the property

- 6.1. The Council's offer will be at open market value. This is what the council surveyors perceive to be the true market value of the property. The market value will be based on the fundamental principle of equivalence. This means in terms of the value of a property in a regeneration area, that the owner of the property should not be better or worse off than before the regeneration proposals.
- 6.2. The council will arrange for a surveyor to carry out a valuation of the property. Following this valuation, the surveyor will then send written notification of the open market value of the property to the owner, as well as details of any Home Loss and Disturbance Payments to which the owner is entitled. The valuation is valid for a 3 month period from the date of the Valuation Letter.
- 6.3. The Valuer will consider the various matters in assessing the market price of the property including:
 - a) The internal condition
 - b) Any internal improvements to the property such as new bathrooms and kitchens
 - c) The location of the property and amenities within the area such as transport links, shops and services
 - d) The housing market in the immediate area, including recent sale prices
- 6.4. If the homeowner disagrees with the council's valuation of the property, they are encouraged to obtain an independent valuation completed by a RICS qualified chartered Surveyor or Valuer. If the independent Valuer does not agree with the council's valuation, there may be a negotiation between the two surveyors. If the property is subject to a CPO and they cannot agree upon a valuation, leaseholders and freeholders can appeal to the Upper Tribunal (Lands Chamber).
- 6.5. The sale ("disposal") of a property by the owner in accordance with, or in advance of, a Compulsory Purchase Order (CPO), will be classed as an "exempt disposal", and in cases where the property was purchased by the freeholder or leaseholder using a Right to Buy discount, the discount will not be due to be repaid.

7. Tenanted properties

- 7.1. If an the owner of the property or leasehold wishes to sell voluntarily in advance of a CPO, the owner has the overall responsibility for gaining vacant possession of their property from their tenant. This should be done in accordance with the timeframe for vacancy agreed through the voluntary agreement between the owner and the council.
- 7.2. However, if a voluntary agreement is not reached, the council will make a Compulsory Purchase Order covering that property. A copy of this order will be served both on the occupier(s) and the owner(s) of the property.

8. Compensation Payments

- 8.1. Home Owners are entitled to compensation for the acquisition of the property at market value. In addition to the market of the property, the homeowners may be entitled to additional compensation as outlined below.

Home Loss Payments – freeholders and leaseholders

- 8.2. A Home Loss payment is a sum paid to a resident to reflect and recognise the distress and discomfort of having to move out of their home. As such this is paid in addition to any disturbance allowance or payments made. A Home Loss payment is paid as a lump sum, and is only paid once.
- 8.3. Residents may qualify for a Home Loss Payment if:
 - a) They are the owner of the freehold of the property
 - b) They are the owner of a lease with at least three years unexpired
 - c) They have qualifying interests in the property, as set out in the Land Compensation Act 1973.Unauthorised occupants and squatters will not be paid home loss compensation.
- 8.4. Owners who do not live in the affected property they own, for example if they rent it to tenants, will not receive Home Loss compensation. Any concerns about whether or not a tenant is living at a property as their only or principal home will be verified by relevant enquiries.
- 8.5. Home Loss Payments will be made to qualifying residents if a Compulsory Purchase Order is issued, at a rate of 10% of the market value of the property, up to a maximum amount payable of £58,000 (as of October 2016). This payment is paid to the owner, and only one payment is made to joint owners. It is paid once only.
- 8.6. If there is no Compulsory Purchase Order in place on the property, then the Home Loss payment is considered discretionary, as the council is not obliged by law to offer Home Loss compensation.
- 8.7. The time limit for claiming Home Loss compensation is the statutory limitation of six years.
- 8.8. Home Loss compensation is subject to the resident vacating the property. As such it will only be payable once the resident has given vacant possession and full ownership.

In order to facilitate and encourage the arrangement of swift, voluntary agreements on the acquisition of properties, Southampton City Council may offer discretionary Home Loss payments at a higher rate to residents who come to a voluntary agreement to vacate their property. This will be in exceptional circumstances and on a case by case basis.

Home Loss Payments – private tenants of freeholds and leaseholders

- 8.9. A private tenant of a leaseholder or freeholder acquired under CPO will qualify for Home Loss compensation if:-
- a) They have occupied that accommodation as their only or main residence for a minimum period of one year.
.... and
 - b) They have to move out of the property permanently, either because of improvement or development works that we will be carrying out, or because their home is being demolished.
- 8.10. A Home Loss payment must be claimed in writing, unless the applicant is unable to submit in this format. The amount paid is laid down in national law. For a tenant the amount payable as a Home Loss Payment is currently £5,800. It will be paid only once, and will be paid to the statutory tenant. Only one payment is made to joint tenants.
- 8.11. The time limit for claiming Home Loss compensation is the statutory limitation of six years. A home loss payment will be paid within three months of the tenant making an application for it, and provided the household has moved from the original property.

Basic Loss Payments

- 8.12. Those who are not entitled to a Home Loss Payment, such as leaseholders and freeholders who do not occupy the property as their primary residence (eg landlords) may be entitled to a Basic Loss Payment, or other compensation if a Compulsory Purchase Order is issued against the property.
- 8.13. Basic Loss Payments or other forms of compensation may be applicable if the resident has a qualifying interest in the property as set out in the Land Compensation Act 1973, and is not entitled to a Home Loss Payment. Basic Loss payments will be made at a rate of 7.5% of the value of the individual's interest in the property, up to a maximum of £75,000.

Disturbance Compensation

- 8.14. Disturbance compensation is a payment that owners or residents of a property being acquired are entitled to, to compensate for certain costs which may be incurred because Southampton City Council needs to acquire the property or land.
- 8.15. Disturbance compensation is issued to meet the reasonable expenses of the person entitled to the payment in moving from the property which is being acquired by the council. If the resident was carrying out a legitimate trade or business on the property, Disturbance may also cover the loss sustained by reason of the disturbance of that trade or business caused by the requirement to move to a new property.
- 8.16. Disturbance costs for any reasonable expenses related to the requirement to move will be considered, and may include:
- Removal costs
 - Redirection of mail
 - Disconnection + reconnection of appliances and services
 - Disconnection and reconnection of services
 - Incidental costs of acquiring new property
 - Stamp Duty
 - Other costs as considered reasonable by the council and in line with legislation.
- 8.17. The Disturbance compensation can be paid in two ways:

Option 1:

A one-off lump sum payment. If the resident chooses this option the full amount will be paid in a single sum, regardless of the actual cost incurred to the homeowner. The resident will not be required to submit receipts and invoices for the costs incurred by their vacation of the property. The lump sum amounts offered by the council are detailed in Annex A.

Option 2:

A claim for actual costs and losses, for reasonable expenses directly related to the move. To qualify for this payment the resident will be required to submit all receipts and invoices relating to the additional costs incurred to them by the requirement to vacate the property to verify the claim amount. The receipts and invoices may be checked and queried by Southampton City Council before payment is issued.

8.18. If the resident chooses option 2 it is important that all receipts and invoices are produced, and recommended that they use reputable companies which provide genuine receipts and invoices that feature:

- VAT Registered and VAT Number
- Company headed paper
- Contact details
- Company registration details
- Date
- Invoice number
- Description of services provided
- Invoice total

8.19. Disturbance compensation will be paid to the resident at the point at which vacant possession of the property is provided to the council.

9. Governance

9.1. Southampton City Council's nominated Head of Capital Assets is the lead officer accountable for ensuring that purchase of properties by the council is undertaken in a manner that is at all times compliant with this policy.

9.2. This policy sets out the minimum standards and services which the Southampton City council will provide to freeholders and leaseholders in cases where the council requires to purchase their property. The council retains the right to act outside the provisions of this policy to provide additional support or compensation on a discretionary and case by case basis, provided the services and provisions are at least in line with the minimum standards set out in this policy.

Annex A: Disturbance Payments

Disturbance costs are to cover the expenses of moving home including removal costs, disconnections and reconnection fees, new carpets and curtains etc.

Option 1: Southampton City Council's fixed sum for moving out is as follows:

Studio/one bed properties	£1,200
Two bed properties	£1,500
Three bed or more properties	£1,800

Only one Home Loss and one Disturbance payment will be made per property

[END]