

Recovery of Costs by Property Owners

This factsheet describes how owners of land and property can expect to recover costs and fees which they incur in relation to the Proposed Scheme and the extent of such recovery.

1 Introduction

- 1.1.1 High Speed Two (HS2) is the Government's proposal for a new, high speed north-south railway. The proposal is being taken forward in phases. Phase One will connect London with Birmingham and the West Midlands. Phase 2a will extend the route to Crewe. The Western Leg of Phase 2b comprises an extension of the network to Manchester and a connection to the West Coast Main Line at Golborne, and is referred to as the Western Leg hybrid Bill. The Eastern Leg of Phase 2b currently comprises an extension of the network from the West Midlands through the East Midlands to Leeds.
- 1.1.2 HS2 Ltd is the non-departmental public body responsible for developing and promoting these proposals. The company works to a Development Agreement made with the Secretary of State for Transport.
- 1.1.3 The construction and operation of Phase One of HS2 is authorised by the High Speed Rail (London – West Midlands) Act (2017). In July 2017, the Government introduced a hybrid Bill to Parliament to seek powers for the construction and operation of Phase 2a.
- 1.1.1 In February 2020, the Government announced its intention to draw up an Integrated Rail Plan. This will recommend a way forward on scoping, phasing and sequencing the delivery of HS2 Phase 2b, Northern Powerhouse Rail, Midlands Rail Hub and other proposed rail investments across the north. At the same time, the Government asked HS2 Ltd to prepare the Western Leg hybrid Bill, provided it does not prejudice any recommendations or decisions that will be taken in this plan, which will be published by the end of the year.
- 1.1.2 It is intended to deposit a Western Leg hybrid Bill seeking powers to construct and operate this phase in Parliament in early 2022 or sooner if possible (the Proposed Scheme). The work to produce the Bill will include an Environmental Impact Assessment (EIA), the results of which will then be reported in an Environmental Statement (ES). The ES would be submitted alongside the Bill when it is introduced to Parliament. As was the case with Phase One and Phase 2a, when the Bill is introduced to Parliament the Secretary of State will also publish draft Environmental Minimum Requirements (EMRs). The EMRs will set out the environmental and sustainability commitments that will be observed in the construction of the Proposed Scheme.
- 1.1.3 A series of information papers were produced for the Phase One and Phase 2a hybrid Bills, explaining the commitments made in those Bills and EMRs. It is the Secretary of State's intention to follow a similar process for the Western Leg Bill. These information papers will be used to provide information about the Proposed Scheme itself, the powers contained in the Bill and how decisions on

the Proposed Scheme have been reached. It is currently proposed that these information papers for the Western Leg of Phase 2b will be published at the time the Bill is introduced in Parliament.

- 1.1.4 The Secretary of State for Transport will be ‘the Promoter’ of the Western Leg Bill. The Promoter will also eventually appoint a body responsible for delivering the Proposed Scheme under the powers to be granted by the Bill. This body will be known as the ‘nominated undertaker’. There may well be more than one nominated undertaker. However, any and all nominated undertakers will be bound by the obligations contained in the Bill, the policies established in the Western Leg EMRs and any commitments provided in the Western Leg information papers.
- 1.1.5 These Western Leg factsheets have been produced to provide information on the emerging proposals for measures to manage the design process for the Proposed Scheme and to control impacts which may arise from the construction and operation of the Proposed Scheme. These measures may then be applied to the Western Leg as commitments made through the eventual Bill, EMRs or information papers.

2 Overview

- 2.1 This factsheet provides guidance on the circumstances in which owners of land and property affected by the Proposed Scheme can expect to recover costs and fees that they incur in relation to the Proposed Scheme and the extent of such recovery.
- 2.2 This factsheet should be read alongside the Claimant’s Professional Fee Policy (see link at 7.2 below) and factsheets on the Land Acquisition Policy, and the Compensation Code for Compulsory Purchase.
- 2.3 Reasonable professional fees incurred where property is acquired under the powers of the Bill, or by agreement in advance, can be reimbursed in accordance with the Compensation Code for compulsory purchase.

3 Costs inside the scope of reimbursement

- 3.1 Prior to Royal Assent of the Bill, HS2 Ltd will reimburse an agent’s reasonable fee in facilitating a landowner entering into an early access agreement (‘EAA’) for essential survey works.

- 3.2 In respect of statutory blight and express purchase, HS2 Ltd will pay reasonable professional fees if the application is accepted.
- 3.3 In respect of the Rural Support Zone, HS2 Ltd will pay reasonable legal fees in respect of a deed of receipt for all cash offers up to £500 plus vat. However, HS2 Ltd will not pay legal fees in respect of Voluntary Purchase.
- 3.4 In respect of the Homeowner Payments Scheme (HOP), HS2 Ltd will pay reasonable legal fees of up to £500 plus vat in respect of a contract of receipt for the purpose of receiving a payment under the HOP scheme.
- 3.5 Owners are strongly advised to ensure the basis of their instructions incurring those fees and costs (including the fee level and basis of costs themselves) is set out in writing and agreed as applicable by HS2 Ltd, the Secretary of State or the nominated undertaker in advance. HS2 Ltd recommends that claimant or their appointed agents/representatives agree the scope and amount of such fees prior to entering into any commitment

4 Costs and fees outside the scope of reimbursement

- 4.1 Costs and fees which an owner incurs for the purpose of obtaining information about the Proposed Scheme and its impact will not be reimbursed.
- 4.2 In accordance with previous established practice on hybrid Bills, costs and fees which owners incur in drafting and depositing their petitions, considering or responding to Petition Response Documents, assurance letters or undertakings, attendance and presentation of their petition in Select Committee, or in attendance at meetings with HS2 Ltd to discuss their petition or subsequent exchanges (unless otherwise agreed) will not be reimbursed.
- 4.3 Under the Need to Sell and Rent Back scheme, no professional fees incurred by the seller will be reimbursed.

5 No land taken

- 5.1 Reasonable professional fees and costs are payable to owners who do not have any land or property acquired from them for the Proposed Scheme, but who make a successful claim in relation to the adverse effect of the Proposed Scheme on the value of their land or property under either section 10 of the Compulsory Purchase Act 1965 or Part 1 of the Land Compensation Act 1973 (or in Scotland, section 6 of the Railway Clauses Consolidation (Scotland) Act 1845

or Part 1 of the Land Compensation (Scotland) Act 1973). See the Western Leg Factsheet: Compensation Code for Compulsory Purchase.

6 Independent Advice

- 6.1 It is important that claimants obtain the right professional advice from practitioners experienced in compulsory purchase and compensation. The Royal Institution of Chartered Surveyors operates a customer helpline that can put people in touch with suitably experienced firms in their area and offer up to 30 minutes free consultancy. Their contact details are:

Royal Institution of Chartered Surveyors

12 Great George Street (Parliament Square)
London
SW1P 3AD
Tel: 024 7686 8555
contactrics@rics.org

- 6.2 The Central Association of Agricultural Valuers may also be able to assist owners in rural areas. Their contact details are:

The Central Association of Agricultural Valuers

Harts Barn Farmhouse
Monmouth Road
Longhope
GL17 0QD
Tel: 01594 810701
enquire@caav.org.uk

- 6.3 In Scotland, the Scottish Agricultural Arbiters and Valuers Association, which is affiliated to the CAAV may also be able to assist owners in rural. Their contact details are:

Scottish Agricultural Arbiters and Valuers Association

Cothill
Duns, Berwickshire
TD10 6YW

- 6.4 The Central Association of Agricultural Valuers also offers a "Find a CAAV Member" tool to see a list of members in their area.

7 More information

- 7.1 Further factsheets and details on the Proposed Scheme can be found at www.hs2.org.uk/phase2b
- 7.2 For further information on Claimant's Professional Fee Policy, can be found at: <https://www.hs2.org.uk/documents/claimants-professional-fee-policy/>
- 7.3 For further information on the Compensation Code see the series of compulsory purchase guidance booklets at: <https://www.gov.uk/government/publications/compulsory-purchase-process-and-the-crichel-down-rules-guidance>
- 7.4 For the Scottish equivalent to the Compensation Code details can be found at: <https://www.gov.scot/publications/compulsory-purchase-scotland-guide-property-owners-occupiers/>
- 7.5 The Royal Institution of Chartered Surveyors has published a consumer guide on compulsory purchase and compensation at: <https://www.ricsfirms.com/residential/legal-issues/compulsory-purchase/rics-consumer-guide-compulsory-purchase>
- 7.6 The Royal Institution of Chartered Surveyors published a Professional Statement in April 2017 that is mandatory for chartered for surveyors advising in respect of compulsory purchase and statutory compensation. A copy can be found at: <https://www.rics.org/globalassets/rics-website/media/upholding-professional-standards/sector-standards/land/surveyors-advising-in-respect-of-compulsory-purchase-and-statutory-compensation-1st-edition-rics.pdf>