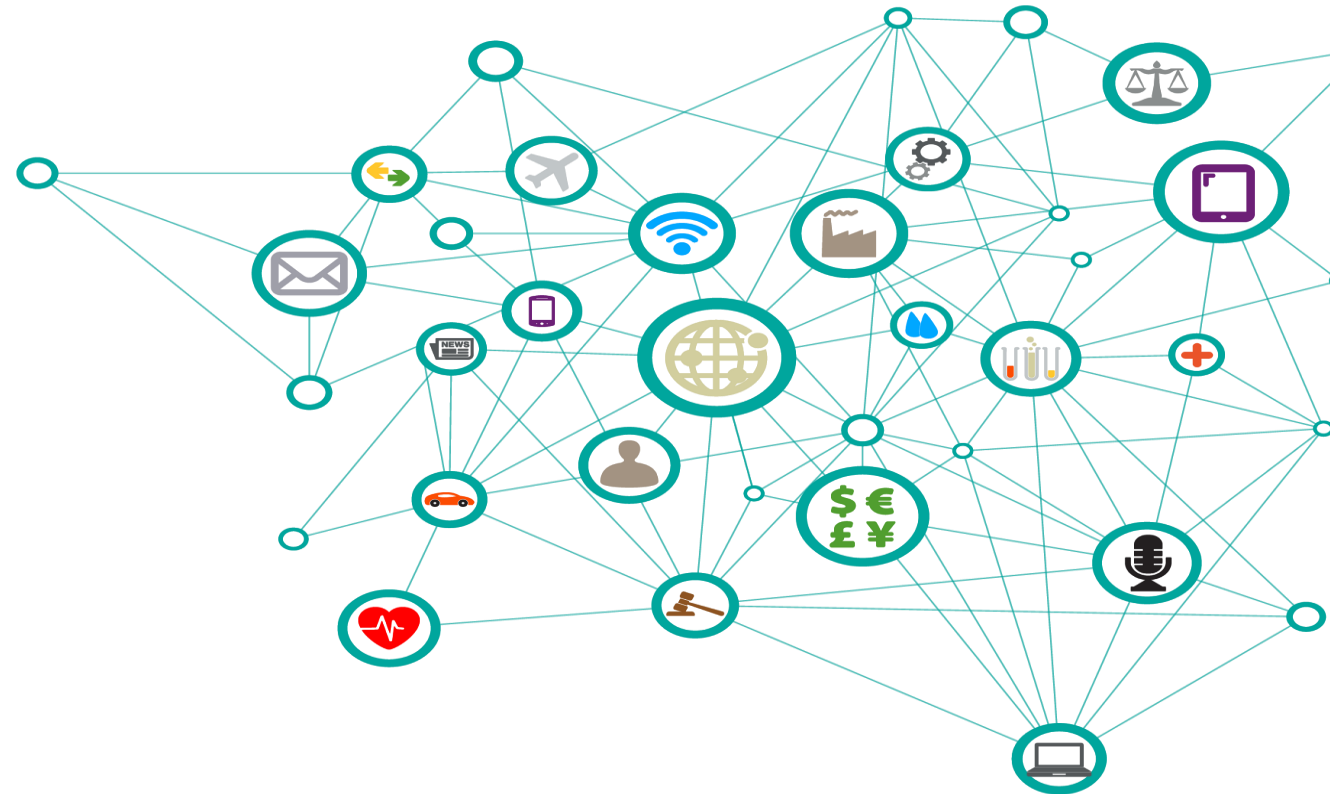


## Advance Payments

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- Right for a claimant to receive advance payment of compensation prior to final determination or agreement of the amount payable has long been enshrined in law under s.52 of the Land Compensation Act 1973.
- To put a claimant in a financial position to reduce the disruption often caused by a CPO, for example to assist a claimant in relocating or mitigating against losses that may result from a CPO.
- Changes introduced to s.52 of LCA 1973 with effect from 6 April 2018.
- Which rules apply?
  - Depends on the date the use of compulsory purchase powers is authorised in any case, for example the date of confirmation of a compulsory purchase order or the date of coming into force of a special act of parliament (e.g. High Speed Two (HS2) Rail Act 2017).

- Advance payment shall be equal to 90% of:
  - The agreed amount of compensation; or
  - The acquiring authority's estimate of compensation.
- Payment made within **3 months** of receipt of claimant request.
- Earliest date request for an advance payment: date of possession of land.
- Further advance payment should be made where estimate is too low.
- Any excess shall be repaid.
- Payment to someone not entitled is recoverable.

- No advance payment where land subject to a mortgage exceeding 90% of agreed compensation or the AA's estimate.
- Where mortgage does not exceed 90%, advance payment reduced by the sum considered required to release the mortgage.
- Mortgagee must consent to making of advance payment which can often lead to delays.
- Particulars deposited with the local authority and registered as a local land charge.
- Applies to rights and interests in land.

- Common Issues with Advance Payments:
  - Payments not made when most needed – e.g. pre-possession
  - Delay in making payments.
  - Payments may be inadequate.
  - Section 52 has no ‘teeth’.
  - Insufficient information to make an estimate of compensation.
  - Risk of overpayment.
  - Causes uncertainty, stress and conflict.

# Advance Payments: Key changes post 6 April 2018

- the new right for a claimant to make an advance payment request after a CPO is authorised...
- ...BUT obligation for acquiring authorities to make payment after a Notice of Entry or General Vesting Declaration is given;
- a shorter timescale of **2 months** (reduced from 3 months) for an acquiring authority to make an advance payment...
- ...BUT earliest date of payment is date of entry onto land
- A request for advance payment must be made in writing by the person entitled to it and must include:
  - (a) details of the claimant's interest in the land, and
  - (b) information to enable the acquiring authority to estimate the amount of the compensation in respect of which the advance payment is to be made

# Advance Payments: Key changes post 6 April 2018

- entitlement for acquiring authorities to request further information within 28 days before processing an advance payment request;
- new entitlement to advance payments in cases involving the exercise of temporary possession powers once those powers are in force.
- If substantial difference in amounts, AA should provide reasons.
- Secretary of State may impose requirements as to the form and content of a request for an advance payment.
- Interest on late payment – no rate set and not yet introduced.