

# THE IMPACT OF VPGA 16 COMPULSORY PURCHASE AND COMPENSATION ADVICE

Recent changes in the RICS Valuation – Global Standards 2017 – UK National Supplement have aimed to provide greater clarity on how far the Global Valuation Standards (The Red Book) apply when providing valuation advice during the course of compulsory purchase orders (CPO).

This article provides further insight of the application of Global Valuation standards in compulsory purchase specifically looking at RICS Valuation Practice Guidance – Application 16 (VPGA 16) and its impact on the industry.

## **RICS VALUATION – GLOBAL STANDARDS 2017**

According to the RICS, all valuation advice given by members is subject to at least some of the requirements of the Red Book.

Section five of Professional Standards 1 (PS1) sets out the five situations where a surveyor is exempt from the Valuation technical and performance standards (VPS 1-5). This is due to the fact that its application is considered inappropriate or unsuitable. Those acting in CPO will be aware that valuation advice for compulsory purchase can fall within multiple exceptions. It is, however, important to note that, even if the work undertaken is exempt, it does not exclude the surveyor from the mandatory obligations of PS1 and PS2.

The new supplementary UK material in the RICS Valuation – Professional Standards, was introduced in November 2018, taking effect for valuation dated from 14 January 2019. It has been published to assist members in the application of the Global Valuation standards in a local context.

This additional guidance has provided further clarity to those advising in Compulsory Purchase, which is set out in VPGA 16 – Valuations for compulsory purchase and statutory compensation. Although VPGAs are not themselves mandatory. This brief inclusion of Compulsory Purchase and statutory compensation within the Red Book has caused some unease in the industry, as valuation advice in compulsory purchase is not the same as a typical Red Book Valuation.

## **KEY ADDITIONS**

For a significant time, there has been ambiguity as to what extent the Red Book applies to valuation advice in Compulsory Purchase. VPGA 16 recognises the circumstances

in which valuers become involved with CPO, and places a firm emphasis on the application of the RICS professional statement Surveyors advising in respect of compulsory purchase and statutory compensation, 1st edition and RICS practice statement and guidance note Surveyors acting as expert witnesses, 4th edition.

The key message from this guidance is that all valuation advice is subject to the general requirements of PS1 & 2. However, it also recognises that compulsory purchase valuation advice does not fully fit within the all boundaries set by Global Valuation standards, and acknowledges that advice may require exceptions and departures.

The guidance suggests that the surveyor should have regard to VPS1-3 and apply VPS 4 & 5 in the context of appropriate statute and associated case law. To break this down further, a surveyor must consider the minimum requirements for terms of engagement (VPS 1), consider and adhere to, where appropriate, VPS 2, which cover inspection, investigation and records. Finally, a surveyor must have regard to the minimum inputs into a valuation report (VPS 3). Any deviation from these Valuation Technical and Performance Standards should be justifiable and reasonable.

The supplement further recognises that, when providing valuation advice in compulsory purchase, VPS 4 & 5, which detail bases of value and method of valuation, are less appropriate. This is because the Red Book is often overridden by statute. The most obvious difference is the adopted bases of value; the basis of value for compensation payable is set out in S5 of the Land Compensation Act 1961, and not VPS 4.

## **HOW HAS THIS IMPACTED THE INDUSTRY?**

The simplest way to describe the additional guidance of VPGA 16 is: when providing advice for compulsory purchase and compensation purposes, the surveyor should pragmatically adopt all the principles of the Red Book except when this is overridden by statute.

This clearly removes previous ambiguity, and arguably historic flexibility, for surveyors providing ‘non-Red Book’ compliant valuation advice during the course of compulsory purchase.

The message above may cause some concern for valuers advising acquiring authorities on initial compensation estimates, when compared to providing advice on full and

final settlement for compulsory purchase and compensation purposes. The compulsory acquisition of land can sometimes take significant time and, due to the nature of the job, consequently result in initial assessments of value differing from final recommendations. This is acknowledged for and provided for within VPGA 16, which promotes the use of clear Terms of Business where initial advice should be clearly identified for negotiation purposes. This purpose of valuation is technically exempt from VPS 1 - 5. Upon an agreed settlement of compensation, the purposes of the instruction changes and, subject to the emergence of new information or material change in circumstances, provide room for further advice to be different from that given at the outset.

## **LAND ACQUISITION BY AGREEMENT**

This additional guidance restricts a surveyor's assessment of value to the confines of S5 of the Land Compensation Act 1961. This could be particularly pertinent in situations where one is acting for an acquiring authority in advance of making compulsory purchase order.

There may be occasions where, in order to secure the whole site and ensure that the project's land acquisition program is adhered to, the costs of acquisition by agreement alongside the costs of making a CPO order should to be viewed pragmatically. With reference to Government Guidance on Compulsory Purchase and The Crichel Down Rules, this document currently allows for an acquiring authority to consider all the costs involved in the compulsory purchase order when assessing appropriate payments for the purchase of land in advance of the order.

It is important that any recommendation to settle be at a figure that takes these additional factors into account and identifies them separately from the assessment of the value of land, or where a "full" value is recommended, this is also noted and the reasons set out.

A side issue, when agreeing land values ahead of compulsory purchase on behalf of the acquiring authority, is to be wary of setting an inflated "market value" where there is no CPO in place. If a value agreed is in contemplation of the use of CPO powers, then this should be made clear in correspondence and in documenting the agreement. The transaction can then be properly adjusted for the absence of CPO powers should it be cited in evidence for later negotiations under powers.

Despite the above, this new guidance has addressed the apparent ambiguity of valuation advice in compulsory purchase, and has provided some additional comfort to its position in Global Valuation standards. The salient take home conclusion being: when providing advice for compulsory purchase and compensation purposes, the surveyor should pragmatically adopt all the principles of the red book except when this is overridden by statute.

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## **FOR FURTHER INFORMATION PLEASE CONTACT:**

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