



## URBAN LAND REFORM BRIEFING PAPER NO 1 EXPLAINING COMPULSORY SALE ORDERS

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This is one of six briefing papers prepared by Professor David Adams of the University of Glasgow to help explain key proposals for urban land reform made in 2014 by the Scottish Government's [Land Reform Review Group](#) (LRRG) to whom he acted as an independent adviser. This paper focuses on the LRRG's recommendations "that further mechanisms are required to address the persistent challenge of vacant and derelict land in urban areas" and "that Local Authorities should have the right to exercise a Compulsory Sale Order over an area of vacant or derelict land, and also that Community Councils, or appropriate community bodies, should have the right to request that a local authority exercises a Compulsory Sale Order" (see pages 103 and 122-124 of the LRRG report).

### What are compulsory sale orders?

Compulsory sale orders (CSOs) would provide new statutory powers to enable local authorities to require that specified land which has been vacant or derelict for an undue period of time should be sold by public auction to the highest bidder. As these powers would be discretionary, it would be for local authorities to decide on a case-by-case whether or not to exercise them.

### Why are compulsory sale orders needed?

CSOs are needed to help solve the problem of semi-permanent land vacancy and dereliction across parts of Scotland. There are about [11,000 hectares of vacant or derelict land in Scotland](#), and this figure has changed only marginally since the late 1990s. Over 75% of this land is thought to have been vacant or derelict since at least 2006, and over 50% since at least 1995. Such land vacancy and dereliction disproportionately affects Scotland's most deprived communities. There is [strong research evidence](#) from a number of studies that unrealistic owner expectations of what land might be worth is partly responsible for semi-permanent vacancy. Contrary to popular perception, urban vacancy and dereliction in Scotland is now primarily a matter of private not public land ownership, with more than twice as much vacant and derelict land, for example, held by known single private-sector owners than known single public-sector owners. Keeping land vacant when someone else could put it to beneficial use impedes the chances of achieving sustainable and resilient settlements. In such circumstances, a change of land ownership is often an important step towards re-use or redevelopment. The LRRG thus concluded that there must come a point when it is no longer in the public interest for an owner to retain land and property indefinitely, without use or sale. When this point is reached, a CSO could be triggered, requiring the land to be sold by public auction.

### What kind of land might be affected by compulsory sale orders?

In principle, a CSO could apply to any 'abandoned' land that has remained in a vacant or derelict condition for an unacceptable period of time. This would require local authorities, who already collect and supply information on vacant and derelict land to the Scottish Government, to use this information as the basis of a new, publically available, statutory register. There would be formal procedures with rights of appeal to enable owners to claim that land had been wrongly included on the register and for others to suggest that land had been wrongly omitted.

### **Could empty property also be subject to compulsory sale orders?**

The LRRG report implied that CSO powers could extend to empty property, but there is no currently no comprehensive register of empty property in Scotland.

### **What would constitute an unacceptable period of time for keeping land vacant?**

This would be a matter for debate and legislation. But the LRRG suggested that the use of CSO's could be linked to the current validity of planning permissions (generally 3 years), reflecting the already well-established principle of public policy that it is reasonable to expect development to commence within 3 years of permission having been granted. Applying this principle would suggest that a CSO could be served at any point after land had been registered as vacant or derelict for more than 3 years.

### **Who might initiate a compulsory sale order?**

Apart from the local authority, the LRRG report suggested that CSO powers might also be granted to other public agencies already having CPO powers. It also recommended that community councils, or appropriate community bodies should have the right to ask the local authority to initiate a CSO. The LRRG did not comment on whether CSOs would need to be confirmed by Scottish Ministers in this same way as for CPOs, but this may be necessary to ensure compliance with Human Rights legislation.

### **What would be the effect of a compulsory sale order?**

A CSO would require the owner to make arrangements for the land to be offered for sale by public auction within a period of six to eight months. The local authority would have reserve powers to organise the auction itself if the owner failed to act, or if the proposed arrangements for holding the auction were deemed unsatisfactory. The notice served on the owner would be accompanied by a planning statement prepared by the local authority. This would detail any existing planning permissions and relevant development plan allocations and policies. It would be intended to clarify what types of development would and would not be likely to be permitted on the land. The statement would be published on the local authority website and would be expected to be referenced in any sale particulars.

### **Who would be allowed to bid at the auction?**

Although there would be no restriction on who might participate in the auction, measures would need to be introduced to avoid speculative purchases by parties who continued to keep the land vacant. This could involve attaching an implicit statutory condition to the sale which gave the local authority the right to purchase the land three years after the sale, at a valuation set at that date by the District Valuer, if no development on the site had by then commenced. Alongside the planning statement, this condition would help ensure that bids made at the auction were based on realistic proposals, and not speculative ones. If no bids were made at the auction, the land would remain unsold, and there would be a period of time, possibly 3 years, before a further CSO could be initiated. However, this scenario is highly unlikely as, in most circumstances one would expect a community organisation or local authority to make at least a nominal bid for the land, especially as no reserve price would be allowed.

### **How would CSOs help local communities?**

Community bodies may choose to bid at auction to provide more open space, allotments or community gardens as well as promote new development in their areas. CSOs could thus provide a useful alternative to the 'community right to buy'. Even if community bodies were outbid by others, simply bringing vacant land back into productive use would be of direct benefit to many communities across Scotland.