



Llywodraeth Cynulliad Cymru
Welsh Assembly Government



Public Inquiries into road proposals

What you need to know

Further copies of this booklet may be obtained from the Welsh Assembly
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Preface

The information in this booklet primarily applies to inquiries held into road proposals in Wales. You are advised to read the booklet carefully. It explains in simple terms the arrangements and procedures for public inquiries held into road proposals and the way in which those inquiries lead to decisions by the Welsh Assembly Government. It cannot give an authoritative interpretation of the law. Only the courts can do this.

The Welsh Assembly Government promotes trunk road and Motorway proposals. The relevant Assembly Minister is responsible for any inquiry into these proposals and for the subsequent decision. He/She is also responsible for making the subsequent decision following a public inquiry held into proposals promoted by a local highway authority. In this booklet 'the Minister' means the relevant Minister of the Welsh Assembly Government.

Part 1 of this booklet covers proposals promoted by the Welsh Assembly Government. Part 2 covers road proposals by a local Council or by a developer who requires a highway to be stopped up. Part 3 explains what you can do if you wish to challenge the Minister's decision or if you are unhappy about the way in which the inquiry was conducted. The Appendix contains some explanatory notes.

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Introduction

1. The Welsh Assembly Government has prepared this booklet. It should help you if you are thinking of giving your views or being represented at a public inquiry concerned with road proposals.
2. In some cases road proposals are shown in the development plan for the area. A development plan can be the subject of an independent inquiry (if a unitary development plan – UDP) or examination (if a local development plan – LDP) held by the local planning authority. The procedures for UDP inquiries and LDP examinations are set out in the free booklets ‘Unitary Development Plans – a guide to procedures’ and ‘Planning your Community: A guide to local Development Plans’, which you can obtain from local Councils, or National Park offices.
3. Road proposals are usually implemented by the highway authority. For trunk road proposals (including motorways) the Welsh Assembly Government is responsible for taking forward such proposals. For other roads it is the local highway authority. However, an application to close a highway may come from either a private developer or a public body.
4. Road proposals take a variety of forms. For example, the Welsh Assembly Government or a Council (as highway authority) may publish/make a statutory order or scheme to define the line or route of a new road, to build connecting roads or to close or alter associated side roads. A Council may seek planning permission for a new road or apply to have a road pedestrianised. A developer may apply for a road to be closed. Compulsory purchase orders may be published/made to acquire any land needed. Some or all of these procedures may be carried out at the

same time. In cases like this the inquiries will usually be held together.

5. There are different Rules for different types of inquiry (see Notes 1-3 of Appendix). One set of Rules applies to inquiries concerned with the line of new roads; another to inquiries into the compulsory acquisition of land or property; and another to those dealing with appeals relating to applications for planning permission. The Rules govern when and how the inquiry must be announced, how it must be conducted and what happens afterwards. More details about the Rules appear in the Appendix.
6. For more information about the proposals or inquiry arrangements into Trunk Roads and Motorways, you can contact the Welsh Assembly Government, Cathays Park, Cardiff, Tel 029 20825111. For local road schemes you can contact either the appropriate local Council or the Planning Inspectorate (PINS), Room 1-004, Crown Buildings, Cathays Park, Cardiff CF10 3NQ
Tel 029 20823866.

The purpose of the public inquiry

7. The purpose of the public inquiry is to enable objectors to, and supporters of, the road scheme to present their evidence before an independent Planning Inspector. It also provides them with the opportunity to test the evidence presented by the other parties and, if appropriate, to cross-examine witnesses. The key tasks of the Inspector are to take account of the evidence submitted; to report on that evidence; and to make recommendations to the Minister on the proposals.
8. The ultimate decision is not the Inspector's; it is one which the Minister takes in the light of representations and objections, the Inspector's report, and all relevant aspects of the Welsh Assembly Government's policies.

Part 1: Trunk roads (including motorways)

Inquiry procedure and organisation

Why hold an inquiry?

9. When statutory orders are published in draft this gives you an opportunity to make objections or representations, in particular landowners and those with an interest in property affected by a draft compulsory purchase order will also have notice served on them. The Welsh Assembly Government will try to resolve such objections but if they are unable to do so they may lead to a public inquiry.
10. A public inquiry is not necessarily held into every road proposal. Sometimes there are no objections; or objections that have been made may be resolved in correspondence. Sometimes the law requires an inquiry to be held. Even if an inquiry is not required by law, the Minister can order one if he/she thinks it necessary. However, an inquiry into road proposals is not a court of law, nor is the Inspector a judge.
11. Many inquiries are straightforward and last only a day or so. Others may take some weeks. At some inquiries only a few people may want to speak. At others many people may want to speak and legal or other advisers may appear on their behalf. But no one needs to worry about coming along to speak and putting questions to others with whose evidence they do not agree. A highways inquiry is not a contest between the Welsh Assembly Government and the objectors. The purpose of the inquiry is for the Inspector to ascertain the relevant facts and arguments, and to decide what he/she should recommend to the Minister. As far as possible everybody will be given time to put their case, but you will not be allowed to give evidence, which is irrelevant, repetitious or libellous. Because the Inspector must keep order, a degree of

formality in the proceedings is inevitable. If the inquiry is likely to be long, you should be there when it starts if you can, but you only need to attend later for the time it takes you to give your evidence. There will probably be a Programme Officer who can advise you about what evidence is likely to be taken at any particular time. Even so, there is nothing to prevent you from staying the whole time, or from arranging for a relative, friend or adviser to attend to keep you informed.

Who arranges a public inquiry?

12. The Minister is responsible for trunk road/motorway proposals in Wales and for appointing the independent Inspector, who is nominated by PINS. The Welsh Assembly Government will make arrangements for the inquiry.

Who is the Inspector?

13. For road proposals promoted by the Welsh Assembly Government, PINS provides an Inspector they consider is the most suitably qualified and experienced for each inquiry. That Inspector is then formally appointed by the Welsh Assembly Government to conduct the inquiry and to report to the Minister.

What is the Inspector's job?

14. The Inspector should:
 - conduct the inquiry observing principles of openness, fairness and impartiality;
 - report on points of objection/support presented to him/her;
 - present his/her views on the merits of the arguments for and against the proposals;

- record his/her conclusions and recommend whether or not the proposals should be approved with or without modification or give his/her reason for not making any recommendations.
15. Planning Inspectors are impartial professional tribunals, duty bound to use all their experience and expertise to assess the substance of the evidence put before them and come to reasoned and impartial recommendations having taken into consideration all the evidence before him/her.
 16. It is important to remember that the Inspector simply makes a recommendation. The final decision rests with the Minister.

What are the Inspector's powers?

17. There are Rules governing the conduct of the inquiry, but otherwise the procedure at the inquiry is generally at the Inspector's discretion. He/she may decide whether a pre-inquiry meeting would be useful, the programme of sittings and the time at which the daily proceedings will begin and end. If necessary, he/she may adjourn the inquiry and resume it later. He/she will listen to any suggestions about the way in which he/she should arrange the business. He/she may decide, in accordance with the Rules, what evidence may be heard at the inquiry. For example, if a matter has been dealt with at an earlier inquiry the Inspector may rule that it would be wrong to go into it again. He/she may refuse to hear irrelevant or repetitious evidence.
18. There are some things which the Inspector cannot deal with – for example legal issues and questions on compensation. If these are raised he/she will usually refer to them in his/her report.

19. Sometimes the Inspector may be accompanied by one or more Assessors appointed by the Minister to advise the Inspector of the weight which should be given to such evidence. He/she may ask questions and will usually be asked to compile a written report at the end of the inquiry. The appointment of an Assessor does not affect in any way the independence of the Inspector.
20. For the larger and more complex inquiries, the Inspector may be accompanied by an Assistant Inspector who will share the responsibility for writing the Inspector's report. The Assistant Inspector's role may include any or all of the following duties:
 - follow the proceedings at all inquiry sessions conducted by the Inspector, taking independent notes and asking his/her own questions of the witnesses as appropriate;
 - conduct sessions of the inquiry on behalf of, and in the presence of, the Inspector, on particular topics;
 - maintain the master set of inquiry documents, ensure that they are correctly numbered and listed; and hand the Inspector a copy of any document mentioned in evidence;
 - act as a link with the media;
 - draft parts of the report, including sections on particular topics;

Who will be there?

21. This depends on the scope of the inquiry. Sometimes, only the Inspector, one or two representatives from the Welsh Assembly Government and a few objectors will be there. At the larger inquiries the Welsh Assembly Government may be represented by a barrister and supporting witnesses, and so may some of the objectors. There may also be other people who support the road

proposals or oppose an alternative which objectors have put forward. Anyone may attend to observe, whether or not they intend to speak, but the Rules allow an Inspector to exclude anybody who behaves in a disruptive manner.

Who may be heard?

22. The various Rules entitle statutory or relevant objectors to be heard at the inquiry and cross examine others, but anyone who has put in a formal objection may be given the opportunity of giving evidence. The Inspector can refuse to hear repetitious or irrelevant evidence, but he/she will usually let anyone speak who has a relevant contribution to make. If the Inspector has to ask anyone behaving in a disruptive manner to leave, that person may still submit evidence in writing.

When are pre-inquiry procedural meetings held and what are they for?

23. If either the Minister or the Inspector thinks it helpful – perhaps because there are a large number of objections or the issues are complex – the Inspector may hold a pre-inquiry meeting. The meeting, which will not usually last more than one day, will concentrate on organisation and procedures. For example it may be used to agree a programme for hearing objections at the inquiry itself; to establish, if possible, matters of policy relevant to the scheme or proposal which need to be explained in a local context; or to see if any questions of fact can sensibly be resolved before the inquiry.

Should I employ a professionally qualified person to represent me, or join a group of objectors/supporters?

24. Occasionally the Welsh Assembly Government may be represented by a barrister if an inquiry is likely to be contentious or if the issues are complex. You may decide

to employ a professionally qualified person, such as a solicitor or a surveyor, who is skilled at presenting a case in public, to appear on your behalf, particularly if the issues are complicated and you do not feel confident enough to handle them yourself. If you decide to do so you should bear in mind you will usually be responsible for the fees incurred, the exception being if you are a successful statutory objector – see paragraphs 65-66. On the other hand you may speak for yourself or get a friend to do so. The Inspector will see that everybody gets a fair hearing whether they are professionally represented or not. The important thing is to make sure that the Inspector is made aware of your views. He/she will be more concerned about this than with the way they are presented.

How will I know when a pre-inquiry meeting is to be held?

25. All objectors and any others who ought to come to the meeting will be notified individually of the date, time and place of any pre-inquiry meeting, at least 3 weeks before it is due to start. The meeting will also be announced in local newspapers. Although the Rules contain provisions about pre-inquiry meetings, your rights at the inquiry will not be prejudiced if you cannot attend the meeting.
26. If a pre-inquiry meeting is held you may be asked to provide an outline Statement of Case. This is a written statement of the main points you propose to put to the inquiry. It is designed to help the Inspector identify clearly the main issues and to structure and programme the inquiry. The statement should therefore include information about witnesses that you are likely to call and an indication of which other witnesses you would like to cross-examine. Although the Minister may serve an outline statement on each objector, you do not need to serve a statement unless you are asked to do so.

How will I know when and where the inquiry is to be held?

27. The decision to hold a public inquiry must usually be made, and announced, within 4 weeks of the closing date for objections to the draft order(s). The inquiry itself should usually begin within 22 weeks of that announcement. During that time you should receive a Statement of Case from the Welsh Assembly Government, explaining the proposals. If a pre-inquiry meeting is held, the inquiry should begin within 8 weeks of the end of that meeting.
28. If you have objected to the road proposals or made other representations about them you will be notified individually of the date and venue of the inquiry at least six weeks before the inquiry. A public announcement is made in local newspapers at least 14 days before the inquiry is due to start. At the same time, notices are exhibited on local notice boards, and along the proposed route.
29. The Welsh Assembly Government always aims to hold the inquiry within close proximity of the proposed scheme, bearing in mind the suitability and safety of the venue. In some rural areas, there may be transport difficulties and the number of suitable venues may be restricted, and it may be necessary to choose somewhere further away. If so, the Welsh Assembly Government will consider providing transport to and from the inquiry.

Will there be a programme and how is it arranged?

30. If you have made an objection or representation you will be asked before the inquiry to say whether you are going to attend and whether a professional advisor will represent you. You will also be asked whether you propose to call any witnesses. This is simply to allow a provisional programme to be drawn up. In short inquiries

there will be no need for a provisional programme since everyone can be heard in a day or two. If there is a pre-inquiry meeting the provisional programme will be one of the items discussed.

31. At the start of the inquiry, whether or not a provisional programme has been drawn up, the Inspector will probably ask you to say if you wish to speak and whether you are going to call witnesses.
32. A programme means that you do not have to attend the inquiry each day, although you may do so. Unless you have been told otherwise, it is important to be there at the start of the inquiry, if you can, so that the programme can be settled, and so that you know what it is, and when you need to attend.
33. At most longer inquiries the Inspector will be assisted by a Programme Officer who will arrange the day-to-day programme of the inquiry. The Programme Officer will be available all the time the inquiry is sitting. You may find it useful to take a note of his/her telephone number. The Programme Officer will advise people when their turn to speak is likely to be. He/she will try to keep everyone informed of possible programme changes, although it is your own responsibility to keep in touch if you wish to appear.
34. Transcripts of the proceedings are not normally taken but may be considered for inquiries expected to sit for more than 16 days (i.e. 4 weeks). Where a transcript is to be taken this will usually be announced by the Inspector at the pre-inquiry meeting. You can refer to the transcript in the inquiry library (see paragraph 41). Transcripts are a service to objectors. They do not replace the Inspector's notes, which are his/her own record of the inquiry.

What should I do if I cannot come on the first day, or at all?

35. If you know before the inquiry that it will be impossible for you to attend on the first day you should write to the Inspector explaining your interest. The letter should be addressed c/o the Programme Officer for the inquiry. You will be contacted to arrange a convenient day and time for you to appear, but this may not always be possible, especially if the inquiry lasts only a day or two. For longer inquiries it may be possible to arrange some sittings outside normal hours.
36. If you cannot attend at all, or if you prefer not to, you can send the Inspector a written statement setting out your views about the proposals. You should do this before the inquiry starts. The Inspector will be able to take your statement into account. Such statements will be available for perusal by any interested persons.

Will I be sent documents and other information?

37. When the Welsh Assembly Government announces the decision to hold an inquiry this will be followed within the next 6 weeks by a Statement of Case, which will explain the proposals and the reasons for them and how they fit in to the Welsh Assembly Government's policy on road proposals.
38. If the inquiry is into the line of a new road the statement will summarise the response to any public consultation which may have been carried out. It will also set out other considerations which have led to the proposals in the draft order or scheme. You will be told where you can inspect other documents and plans.
39. The Statement of Case contains the main points that the Welsh Assembly Government will present to the Inspector at the inquiry. You should study it carefully and consider whether there are any points that you want to comment

on at the inquiry and you should show it immediately to anyone who is going to act for you.

40. The Statement of Case will probably not be the first explanation of the road proposals which you receive. The proposals will have been explained briefly when they were first made public. They may have been the subject of public consultation to determine a preferred route. There may have been a local exhibition at the time draft orders were published or you may have contacted the Welsh Assembly Government about particular points.
41. Library facilities will normally be provided during an inquiry. The library will include all the material which the Welsh Assembly Government will present and on which it bases its case. This material may be added to as the inquiry progresses. There will be arrangements for documents to be copied, normally free, but will depend on individual circumstances.
42. After reading the Welsh Assembly Government's Statement of Case you may want further information to help you to prepare your case. You can ask the Welsh Assembly Government for information about the facts and assumptions upon which it bases its case, results of analyses, an explanation of its methods and other prepared information. You may have to pay a small charge for plans and documents. Notes for the guidance of Inspectors and any brief provided for the Inspector will be available for inspection. The Welsh Assembly Government will not collect information or undertake analyses which it considers to be irrelevant as that would make unreasonable demand upon its resources.

Do I need to prepare a Statement of Case?

43. You should only prepare a Statement of Case if you are formally asked to do so. The Statement should consist of

a brief outline of the main points of your case. It should list and be accompanied by a copy of every document which you intend to submit or refer to in your evidence. The Statement is not part of your evidence.

How can I give evidence to the inquiry?

44. The usual way to give evidence to an inquiry is to submit a proof of evidence before the inquiry begins. This is a full statement of the case you wish to present. It should be as concise as possible and concentrate on the main points of the case. It should include any alternative proposals you wish to make and give your reasons in full.
45. If your proof is over 1,500 words in length, you also need to prepare a summary.
46. Your proof with its summary, if there is one, should be submitted to the Programme Officer at least three weeks before the date fixed for the inquiry to start. If a pre-inquiry meeting takes place, the Inspector may fix a different date by which proofs must be submitted. Submitting proofs of evidence in advance enables the Inspector to read the evidence before it is heard in public. Reading a long proof out in public can take a great deal of time. The normal procedure will be for you, and for other witnesses, to read out only the summary. Reading out only the summary reminds the Inspector about the main points you are making and brings them to the attention of other people, but unless you say otherwise, your full proof remains your evidence to the inquiry and is subject to cross-examination.
47. The Inspector may think it would be useful to hear a full proof, and not just the summary. He/she can do this if he/she wishes. He/she can also allow an objector to give nothing but oral evidence if it has not been possible to provide a written proof.

48. If you wish to speak, you must also be prepared to answer questions by the Inspector or other people. You will be able to ask questions of other witnesses too. The Inspector will see that any questioning is carried out in a straightforward and reasonable manner.
49. Written proofs of evidence taken into account by the Inspector will be available for public inspection at the inquiry and copies made available where practicable.

How can I propose an alternative route?

50. You may think that the Welsh Assembly Government's proposals should follow a different route. If you intend to suggest an alternative, you should inform the Welsh Assembly Government as soon as possible. You may be asked to give particulars and to describe the route. No great detail is required but the route should be properly thought out and realistic. In many cases a line on a map used for the draft line order will do. In the case of a junction improvement, you might provide a sketch plan. In simple cases a written description may be sufficient. You only need to give enough information to enable your alternative route to be identified.
51. If you are asked to give details of your suggestion you will be asked to do so by a specified date at least 14 days before the inquiry. It is important that you meet this deadline, otherwise the Inspector and the Minister are entitled to disregard your suggestion. The purpose of setting a date is to enable the suggestion to be circulated to those who may be affected by it and make sure that it can be discussed sensibly at the inquiry. At the inquiry you will need to give the Inspector your reasons for thinking your suggestion is better than the published proposals. You must be prepared to be cross-examined about your suggested alternative. You can put questions to other people about any alternative they may propose.

52. You need to bear in mind that the road proposals are being considered in the context of the general public interest. If you object to the proposals you will probably want to persuade the Inspector that there are good reasons why the scheme should not go ahead, or that a different solution should be adopted, or that the scheme should be altered. You do not need to support your case by working out the engineering details and costs of alternative proposals, but you can do this if you think it helps your case.

What will be the order of speaking?

53. The Inspector has a good deal of discretion to decide the order in which people speak. However the promoting authority has the right to begin and the right of final reply. The Welsh Assembly Government will make the opening statement, and call witnesses to explain the proposals in more detail and to show how they fit in with its policies. Persons giving evidence for the Welsh Assembly Government can be questioned by objectors and other parties, or by their representatives. Other people who wish to speak in support of the proposals may be called at this stage.

54. In most cases the Inspector will then call any representatives of local authorities or statutory undertakers; then those representing particular interests or groups; and then individuals.

55. Any witness's evidence can be tested by questioning. If you call a witness, you may put further questions about the witness's answers. If you raise a new point that has not already been dealt with in evidence, the Inspector can allow further evidence to be given about this. Further questioning is usually allowed. Welsh Assembly Government representatives may then comment on the issues raised. After any closing statement the person

presenting the evidence wants to make, the inquiry moves on to the next supporter or objector.

56. A local inquiry into a particular scheme is not the place to discuss national transport policies. Welsh Assembly Government representatives are not obliged to answer questions about the merits of Welsh Assembly Government policy or about the methods, design standards, economic assumptions and forecasts of traffic growth adopted. However, they will explain how its proposals fit in with those policies.
57. When all the parties have been heard, the Welsh Assembly Government representative makes his/her closing remarks; the inquiry is then finished.

Will the Inspector visit the site?

58. The Inspector may make an unaccompanied visit to the site before or during the inquiry. He/she may also make a visit accompanied by a representative of the Welsh Assembly Government and objectors or their representatives during or after the inquiry. You can point out to him/her things on or near the site and indicate how the road proposals may affect the area. The Inspector cannot discuss the merits of the road proposals or listen to argument during a site visit. The Inspector will announce the time and date of a site visit during the inquiry. If you wish the Inspector to visit any particular place you should let him/her know in good time.

What happens after the inquiry and how will I find out the decision?

59. The Inspector makes a report to the Minister; this may take some time but the Inspector will usually have a rough target of three days to write the report for every day that the inquiry sat, plus an allowance for administration. Where an Assessor has produced a separate report

this will be presented with the Inspector's report. The Inspector's report will make clear how far he/she agrees with the Assessor and give reasons for any disagreement.

60. The Minister considers the report carefully before deciding whether the proposals should go ahead, whether they should be amended, or whether they should be dropped and some other solution sought. The Inspector's report of the evidence presented at the inquiry and the recommendations he/she makes are only part – a very important part of course – of the material on which the Minister bases his/her decision. The decision is the responsibility of the Minister alone. His/her conclusions may differ, wholly or in part, from the recommendation of the Inspector.
61. The Minister is not bound to accept all or any of the Inspector's recommendations, but where he/she
 - (i) differs from the Inspector on any matter of fact mentioned in, or appearing to be material to, a conclusion reached by the Inspector; or
 - (ii) takes into consideration any new evidence or new matter of fact (not being a matter of Welsh Assembly Government policy)

and for that reason is disposed to disagree with the Inspector's recommendations, the Rules require him/her to afford certain defined classes of objectors who appeared at the inquiry an opportunity to make representations. Normally all who were given a hearing at the inquiry are afforded that opportunity. In such cases the inquiry may have to be re-opened.

62. Where, following consideration of the Inspector's report, the Minister proposes to modify the proposals substantially, he/she will notify everyone who may be affected by the proposed modifications. There will be an

opportunity for those affected to give their views before the Minister makes his/her decision. Such modifications may require the publication of further draft orders and a further public inquiry may be necessary.

63. The time taken to announce the Minister's decision may depend on a number of factors, such as the complexity of the scheme and the length of the Inspector's report. The Welsh Assembly Government has a target of issuing the decision within six months of receiving the Inspector's report.
64. Everyone who has written, or appeared at the inquiry, will be notified of the Minister's decision by letter. This letter is called the decision letter and a copy of the Inspector's report will normally accompany it. If the report is bulky, only the Inspector's conclusions and recommendations will be provided. The decision letter will say where full copies of the report and other documents can be inspected; a copy of the report alone can usually be inspected at the offices of the local Council(s), libraries and other suitable locations. You can ask for a copy of the full report free of charge from the Welsh Assembly Government once the decision letter has been issued.

Can I be re-imbursed for my costs for attending?

65. Parties to an inquiry are normally expected to bear their own costs. The exceptions to this are where
 - (i) a statutory objector has been successful (fully or partially) in resisting proposals to take land from him/her for the scheme, in which case the objector's reasonable costs of preparing his/her case will be reimbursed (fully or partially) by the order making authority; or
 - (ii) any participant in the inquiry can successfully show that one or more of the other participants

has behaved unreasonably and that unreasonable behaviour has caused them to waste or incur expense unnecessarily – in which case the ‘offending’ participant(s) may be required to pay the other party’s costs of preparing for the inquiry. In practice any award on this basis is likely to relate to procedural matters, such as failing to submit grounds of objection or serve a statement of case, resulting in unnecessary expense – for example because the inquiry has to be adjourned or is unnecessarily prolonged. Further guidance in this respect is provided in Welsh Office Circular 23/93 [Awards of Costs incurred in Planning and Other (including Compulsory Purchase Order) Proceedings].

66. Joining a residents’ association or action group may help you and others to afford professional representation, but the association will not be covered by the arrangements for repayment of costs even if its case is successful. However, if you are a successful statutory objector (see paragraph 65 above) your contributions to the association’s costs may be reimbursed either to you or to the association.

Will the decision of the Minister cover the amount of compensation I may be paid if my land, property or interest is compulsorily purchased?

67. No. The Minister’s decision comes too early to include the amount of compensation to be paid. This is a matter to be negotiated with the valuer acting for the Welsh Assembly Government when the land is to be bought, but you may be entitled to an advance payment of compensation if possession is taken of your land before final settlement of the compensation figure. In certain circumstances you may receive further advances. These payments will not prejudice the final settlement in any

way. If the compensation you are entitled to cannot be agreed the matter may be referred to an independent body, the Lands Tribunal. In any of these circumstances you may be eligible to obtain legal aid for costs incurred in obtaining assistance from a solicitor. You may also be eligible for legal aid to enable you to be represented in the proceedings in the Lands Tribunal. A series of booklets called "Land Compensation – Your Rights Explained", are issued and available from the Welsh Assembly Government.

Part 2: Other roads

What about road proposals not promoted by the Welsh Assembly Government?

68. Much of the information in Part 1 also applies to road proposals made by local Councils (as highway authority) and stopping up of highways proposed by private developers or public bodies, but there are some significant differences. These are explained below.
69. A scheme or order made by a local highway authority for road proposals under the Highways Act 1980 is subject to confirmation by the Welsh Assembly Government. If there are unwithdrawn objections from statutory authorities, a public inquiry must be held. If there are unwithdrawn objections from owners or occupiers of land, or others, a public inquiry will normally be held.

Who arranges a public inquiry?

70. These arrangements are handled by the Planning Inspectorate (PINS), including the appointment of the Inspector, although the local council will make the detailed arrangements for the inquiry.

What formal Rules apply?

71. The Rules covering schemes and orders proposed by the Welsh Assembly Government include a section about schemes and orders proposed by local highway authorities, but see Appendix Notes to this booklet.
72. Similar Rules apply where a Council is seeking planning permission.

73. Private developers or public bodies may also propose stopping up or pedestrianisation of highways. There are no formal Rules for inquiries into such proposals under the Town and Country Planning Act 1990, but the procedure generally follows the Rules for planning inquiries.

Who makes the decision?

74. In the case of schemes or orders made by local Councils, the relevant Welsh Assembly Government Minister makes the decision. If the Minister disagrees with the Inspector's recommendations, he/she must give the Council the same chance to make representations as he/she gives to statutory objectors who appeared at the inquiry.

Part 3: Challenge and complaint procedures

Can I challenge the decision?

75. The Highways Act 1980 and the Acquisition of Land Act 1981 both contain procedures whereby a person aggrieved by the scheme or order may challenge a decision in the High Court on the grounds that the statutory powers have been exceeded, or that rules of procedure have not been complied with. Any application must be made in the High Court within six weeks from the date on which the notice about the making of the scheme or order is first published or, where the scheme or order has had to be laid before Parliament, within six weeks from the date on which the scheme or order becomes operative.
76. The Minister's decision is final, unless the High Court sets aside the decision by quashing the scheme or order, or the scheme or order has exceptionally to be laid before the National Assembly for Wales. In the latter case petition against the scheme or order can be made to the National Assembly for Wales.
77. You should consider taking legal advice before initiating a High Court Challenge. Your local Citizens' Advice Bureau can advise you about any assistance for which you may be eligible.

What should I do if I am dissatisfied with the conduct of an inquiry?

78. During or after the inquiry any complaints about the conduct of the Inspector should be sent to the Complaints Officer, The Planning Inspectorate, Room 1-004, Crown Buildings, Cathays Park, Cardiff CF10 3NQ.

79. Complaints about individual officials should be sent to the relevant Welsh Assembly Government Minister.
80. The Council on Tribunals is an advisory body to the Government on procedures at public inquiries generally. If you feel that there was something wrong with the procedures used before, during, or after the inquiry, you can complain to the Council at 81 Chancery Lane, London, WC2A 1BQ. The Council will take the matter up if they feel that it comes within their scope, but they are not concerned with the merits of the case, and have no power to alter the decision.

Appendix

This appendix gives more details on a number of points arising from the main parts of the booklet.

Note 1

The Rules governing inquiries into orders and schemes proposed under the Highways Act 1980 by the Welsh Assembly Government or a Council are the Highways (Inquiries Procedure) Rules 1994 (Statutory Instrument 1994 No. 3263).

Note 2

The Rules governing inquiries into the compulsory purchase of land or property are the Compulsory Purchase by Ministers (Inquiries Procedure) Rules 1994 (Statutory Instrument 1994 No.3264) if it is the Welsh Assembly Government who has put forward the compulsory purchase order. If it has come from a Council the Rules are those set out in the Compulsory Purchase by Non-Ministerial Acquiring Authorities (Inquiries Procedure) Rules 1990 (Statutory Instrument 1990 No.512).

Note 3

The Rules on inquiries arising from applications for planning permission are the Town and Country Planning (Inquiries Procedure) (Wales) Rules 2003 (Statutory Instrument 2003 No. 1266).

Note 4

Highways inquiries in respect of Trunk Roads and Motorways in Wales are arranged by the Welsh Assembly Government and local authority highways inquiries by the Planning Inspectorate (PINS) Room 1-004, Crown Buildings, Cathays Park, Cardiff CF10 3NQ.

Note 5

Procedures for Local Councils seeking planning permission

The Town and Country Planning General Regulations 1992 require local authorities to apply for planning permission for their own development proposals such as road schemes. Any local road proposal, which in the local authority's opinion is a departure from the development plan, must be notified to the Welsh Assembly Government under the provisions of the Town and Country Planning (Development Plans and Consultation) Directions 1992. The Directions also require authorities to notify the Welsh Assembly Government of any application they have – which is not a departure – for development, which consists of or includes the construction of a road whose route is not shown in the relevant local plan or unitary development plan.

The Welsh Assembly Government has an initial period of 21 days to decide whether applications notified to it should be called in for its own determination. It is very selective about calling in applications and generally only does so if planning issues of more than local importance are involved.

If the Council wishes the new road to be a special road it must – in addition to procedure – publish a statutory scheme under the Highways Act 1980 and submit it to the Welsh Assembly Government for confirmation.

The Council can publish statutory orders under the Highways Act 1980 to alter or close side roads and accesses, and to construct bridges over and tunnels under navigable waterways. These orders must also be submitted to the Welsh Assembly Government for confirmation.

Note 6

The precise circumstances in which an inquiry has to be held are set out in the relevant Acts of Parliament. There is only one circumstance in which an inquiry must be held because private individuals or companies have raised objections. This is where they have a legal interest in land or property included in a compulsory purchase order and maintain an objection to that order.

