

Land and property acquisition and compensation policies

Interim Property Hardship Scheme
panel guidance

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1. Introduction

1.1 Purpose of this panel guidance

- 1.1.1 This document contains panel guidance for the interim Property Hardship Scheme (PHS), which we have introduced to support proposals for the development of a new Northwest Runway and associated infrastructure at Heathrow Airport (the Project). These proposals are currently being prepared for a Development Consent Order (DCO) under the Planning Act 2008.
- 1.1.2 The PHS aims to assist eligible property owners who have a compelling need to sell their property but can only do so at a substantially reduced price, as a direct result of the Project proposals. Consequently, they are facing significant hardship. Those who can demonstrate that they meet certain eligibility criteria will be able to have their property purchased by us at its unaffected open market value (the market value ignoring any adverse effect from the Project). Where the property falls wholly or partly within the boundary of the designated Airports National Policy Statement (the ANPS site boundary), the criteria have been amended. Subject to meeting these criteria, in addition to the market value of the property, the applicant will receive an offer of enhanced compensation. This amendment has applied since 26 June 2018.
- 1.1.3 The PHS is one of the discretionary policies we are in place for people whose properties are within the area most affected by the Project, or who have an interest in land required for the Project. Our discretionary policies are intended to supplement, and operate in parallel to, the existing statutory regime governing compensation for the compulsory purchase of land. This PHS policy goes beyond the statutory compensation regime.
- 1.1.4 An application under the PHS will be assessed by a majority independent panel to determine whether or not the eligibility criteria have been satisfied. The panel will recommend that we either accept the application and offer to purchase the property, or reject it. We will then be responsible for deciding whether to accept or refuse it. While we must follow the recommendation of the panel, we may (at our absolute discretion) accept an application that the panel has recommended be refused, as it does not meet all the criteria, if we consider there is a strong overall case for doing so.
- 1.1.5 This guidance sets out the operating procedures and working arrangements of the panel. It has been produced not only to guide the panel, but also to ensure applicants understand the procedures followed by the panel when assessing applications under the PHS and making recommendations to us.
- 1.1.6 The panel guidance should be read in conjunction with the interim Property Hardship Scheme policy terms.
- 1.1.7 The interim PHS and this panel guidance have been developed and updated to take account of responses to our Airport Expansion Consultation One (January 2018).

2. Outline of the process

2.1 Overview of the PHS process

2.1.1 The full Property Hardship Scheme (PHS) process is set out in the flowchart below:



2.1.2 It should be noted that the PHS is a paper-based process. Applicants are expected to provide documentary evidence to support their application.

3. Panel procedures

3.1 Membership

- 3.1.1 The panel is majority independent. For each application made under the Property Hardship Scheme (PHS), it will comprise five members: three independent members, one senior representative of Heathrow and one airline representative.
- 3.1.2 A pool of suitably qualified and experienced panel members has been established. It includes a number of individuals who may be called on when the panel meets to consider an application. This means the independent members who attend panel meetings will vary according to availability.
- 3.1.3 For each panel meeting, the role of Chair will rotate between the independent members. The responsibilities of the Chair are explained in **paragraph 3.11**.

3.2 Quorum

- 3.2.1 The quorum for all meetings of the panel is five members, which must include three independent members. One of the independent members will act as Chair of the meeting. We may (in our absolute discretion) accept a positive recommendation from an inquorate panel.

3.3 Secretariat

- 3.3.1 The PHS will be administered by a Secretariat funded by us. The Secretariat will manage the processing of applications, support applicants in ensuring applications are complete and contain the required information, provide administrative support to the panel and oversee the proper functioning and operation of the PHS process. The Secretariat will not be involved in assessing the merits of individual applications or in determining the recommendation to be made by the panel.
- 3.3.2 In particular, the Secretariat will be responsible for:
 - Developing and maintaining a system for managing applications, including ensuring compliance with data protection laws.
 - Receiving, processing and checking applications.
 - Dealing with information received from applicants, including verifying information submitted as part of an application.
 - Notifying applicants as to whether or not their application has been completed correctly and is valid for assessment by the panel.
 - Convening panel meetings and supporting panel members before and during the meeting.
 - Preparing summary reports for each application (following the template in **Appendix A: Summary report template**) and providing these to panel

members before meetings, along with all supporting evidence and other information referred to in **paragraph 3.3.3**.

- Informing the panel of any previous recommendations and decisions made in relation to the applicant.
- Producing a formal note after each meeting that records the recommendation of the panel in respect of each application considered, as well as the supporting reasons for that recommendation, and clearing this with the panel.
- Sending the agreed minutes to our relevant decision-maker.
- Conducting spot checks on the source of evidence provided by applicants to ensure its legitimacy.
- Notifying applicants of the decision made by us in relation to their application.
- Seeking legal advice, as necessary.
- Administering the valuation and purchase process by:
 - a. Obtaining property valuations where the decision is to offer to buy the applicant's property.
 - b. Calculating and communicating the offer.
 - c. Instructing property agents and solicitors to progress the purchase process, where an offer is accepted.

3.3.3 The Secretariat will provide the following information to the panel to assist in considering an application:

- The application and supporting evidence.
- The summary report in respect of the application (see **Appendix A: Summary report template**).
- Any previous recommendations and/or decisions relating to the applicant.
- The interim Property Hardship Scheme policy terms and panel guidance.
- Geographical information relevant to the property location.
- Any legal or other advice it has obtained on an application before the meeting (which will also be provided to the applicant).

3.3.4 The Secretariat will advise on the procedures of the PHS. It can pause the panel meeting at any time to ensure the meeting operates correctly, clarify the correct interpretation of criteria (subject to **paragraph 3.3.5**), help panel members find information within a case file, or for any other reason at its discretion to ensure the correct operation of the scheme.

3.3.5 Secretariat staff cannot give their opinion in relation to the merits of an application at the panel meeting, guide the discussion in terms of what the panel's considerations must be, or in any way become involved in the making of recommendations.

- 3.3.6 The recommendations are the panel's alone. The Secretariat can advise on whether wording and phrases are appropriate for inclusion in the recommendation to the decision-maker, as this will also be visible to applicants.

3.4 Terms of reference for the panel

- 3.4.1 The role of the panel is to assess an application made by a property owner under the Property Hardship Scheme (PHS) and determine whether or not the eligibility criteria have been satisfied. On the basis of that assessment, the panel must make a recommendation to us either to accept the application and offer to purchase the property, or reject the application. The eligibility criteria are set out in **Section 3** of the interim Property Hardship Scheme policy terms, which can be obtained by emailing us on communityrelations@heathrow.com or calling 0800 307 7996.
- 3.4.2 When making recommendations against individual criterion for each application, the panel should consider the specific wording of that criterion as set out in the policy terms. If the panel raises queries about the meaning or application of the eligibility criteria, the Secretariat may need to seek legal advice to ensure the criteria are properly applied by the panel.
- 3.4.3 All members of the panel must apply the criteria set out in the policy terms consistently and exercise sound judgement to ensure applicants are treated fairly.
- 3.4.4 If an application is rejected due to a failure to satisfy the eligibility criteria, the applicant can reapply under the PHS if there has been a material change in their circumstances, or they can provide new or additional evidence that is relevant to the reason(s) why the original or previous application was refused. However, reapplications cannot be submitted (and will not be processed by the Secretariat) until three months after the date the original or previous application was refused. Reapplications that come before the panel should be assessed on the following basis:
1. A reapplication that is submitted within six months of refusal need only address the criteria that were not met by the previous application and should be considered by the panel against those criteria only.
 2. Where a reapplication is submitted more than six months after refusal, it must address all the eligibility criteria and the panel will not be bound to follow the conclusions of the panel that considered the earlier application, or our decision in relation to the eligibility criteria. However, if the factual circumstances relating to an individual criterion have not changed, the panel may take into account the earlier panel's conclusion, should it consider it appropriate to do so.
- 3.4.5 In carrying out its duties under the PHS, the panel must follow the principles of procedural fairness.

3.5 Recommendations

Determining recommendations

- 3.5.1 The panel will determine its recommendation for each application on a simple majority basis. This means its recommendation will be based on the views of at least three of the five members. The Chair will not have a casting vote and his or her view will carry no additional weight.

Making recommendations

- 3.5.2 The recommendation of the panel, including the conclusions, will be drafted by the Secretariat following each meeting and will be cleared by the panel. It will be set out in a formal note of the meeting (the recommendation report). The substance of the recommendation report in respect of any individual criterion or the overall application cannot be altered after the meeting. Only the detail of the wording can be changed. The recommendation report will be sent to our relevant decision-maker.
- 3.5.3 The recommendation report must include reasons for the conclusions reached in respect of the eligibility criteria. Panel members should provide sufficient detail for the applicant to understand why the recommendation has been made. Where an application is rejected under a criterion and the reason or part of the reason is a lack of evidence, the report should set out, in as much detail as possible, what evidence would have reasonably been expected to meet the threshold.

Where the panel members do not all agree

- 3.5.4 The panel is not asked to reach a unanimous agreement on any criterion or application overall. If a member disagrees with the recommendation of the majority of the panel on an individual application, and feels strongly that we should be made aware of this, they may ask for their view to be included as a separate section of the recommendation report, known as a minority report. This is optional and is not expected simply because all five members do not agree. Any request to include a minority report must be openly declared during the consideration of the case at the panel meeting and the reasoning and proposed wording presented to the other members and the Secretariat, so it can be recorded as part of the recommendation report. It is not possible to decide to submit a minority report after the meeting has ended.

Decision on the application

- 3.5.5 We will be responsible for deciding whether to accept or refuse an application based on the recommendation of the panel. We will be bound to follow the recommendation but may (in our absolute discretion) accept an application that the panel has concluded does not meet all of the criteria, if we consider there is a strong overall case for doing so.

3.6 Frequency of panel meetings

- 3.6.1 The Secretariat convenes meetings of the panel and the frequency will be determined by the number of applications received in any three-month period. A meeting will generally be held on a single day with preparation that morning, but there may need to be some flexibility on this depending on the volume of applications. Where there are no applications to consider at a meeting, it will be cancelled with as much advance warning as possible.

3.7 Attendance at panel meetings

- 3.7.1 Panel meetings are held in private and only the Secretariat and members will attend. The Secretariat will agree which members from the pool will attend which meeting, taking into account their availability and ensuring, as much as possible, that meetings are evenly distributed between them. The aim will be to agree attendance at least two weeks before any meeting.

3.8 Documentation, preparation and follow up from panel meetings

- 3.8.1 On the morning of a meeting, the relevant panel members will be provided with individual copies of the case files relating to the applications being considered. To ensure data security, these documents will only be provided to panel members in hard copy form at our offices and may not be taken off site. Panel members will be required to hand back all papers at the end of meetings and may not take, or keep copies of, any papers from the case file. In respect of an application, the case file will include:
- The summary report of the application (the template can be found in Appendix A: Summary report template) that will have been prepared by the Secretariat.
 - A copy of the application form and supporting documentation.
 - Any legal or other professional advice obtained by the Secretariat to assist the panel in making its recommendation.
 - The interim Property Hardship policy terms and panel guidance.
 - Any previous recommendation or decision relating to the applicant.
- 3.8.2 Panel members will also be sent the agenda for a meeting in advance, following the template attached in **Appendix B: Panel meeting agenda template**.
- 3.8.3 Panel members must only use the information contained in the case file that is given to them by the Secretariat when preparing for the meeting, and in the meeting. They should not use internet searches or other forms of background research to add information or understanding to the documentation provided in the case file.

- 3.8.4 The timing for a panel member's preparation will be agreed beforehand and a room will be booked for independent members to review the documentation. This is likely to take place on the morning of a panel meeting. Members should expect to spend at least three hours reviewing cases, in a single slot. On occasion, if there is only a very small number of cases to be considered, the Secretariat may suggest a shorter period of preparation time. If the volume is high, for example six or more cases, members should expect to spend more time reviewing them before the meeting.
- 3.8.5 The Secretariat will limit the maximum number of cases that could be considered in one day by the panel. The current maximum is eight to ten, but this depends on the complexity of the cases and the amount of information submitted. The decision will be made at the Secretariat's discretion, after careful consideration of the time the panel will need to spend on reviewing and discussing each case.
- 3.8.6 All material reviewed must be returned to the Secretariat for safekeeping following each member's preparation time. This will include the panel member's own copy of the case file with any notes they may have made on it. The members' files will be returned to them at the beginning of the panel meeting.
- 3.8.7 A panel meeting cannot take place until each member is comfortable that they have had sufficient preparation time, and have confirmed to the Secretariat that they have reviewed and acknowledged the full contents of all the case files to be considered at the meeting. This will also be confirmed by the Chair at the meeting. It is therefore possible that the start of a meeting might be delayed to make sure this is the case.
- 3.8.8 Following each meeting, the Secretariat will draft the recommendations of the panel. Members will be asked to review the recommendations within a reasonable timeframe, usually a maximum of two days.

3.9 Security

- 3.9.1 Once the Secretariat has prepared the draft recommendation report, it will be sent to panel members by email for it to be approved. The draft recommendation report and the summary forms with the panel member's notes will be password protected before being sent to them. Panel members will be made aware of the password at the meeting.
- 3.9.2 Any communications regarding recommendations should not be printed, downloaded, forwarded to other email addresses or saved on any type of computer, media or communication device. The email address provided to the Secretariat for the purpose of receiving the documents must belong solely to the panel member. Email addresses that are set up for another individual in addition to, or instead of, the panel member, cannot be used. This includes email addresses that are accessible by spouses, partners, children or other family members of the panel member.
- 3.9.3 Passwords to open documents must not be disclosed to any other person, including personal assistants, partners or family members. They must not, at any time, be left unattended or in the care of others.

- 3.9.4 Panel members' own copies of the case file, with any notes written on them, will be retained by the Secretariat until our decision on the case is finalised. Following this, they will be destroyed as they will no longer be required. Copies of all other documentation in the case file will be made and retained by the Secretariat, and any original documents supplied by the applicant will be returned to them after a decision has been made on their application.
- 3.9.5 The Secretariat will not disclose to applicants, or their advisors or representatives, the names of individual panel members appointed to their case, or our decision-maker. There is no benefit to an applicant in knowing the names of the members. Also, there is no mechanism by which applicants would be able to contact members directly and the Secretariat will not enable any communication between applicants and panel members. There should not be any direct communication between members and applicants in any circumstance. We will act immediately to intervene in any communication in either direction and ensure panel members are not exposed to any risks as a result.

3.10 Conflicts of interest

- 3.10.1 It is the responsibility of Panel members to declare any actual or perceived conflicts of interests on a case-by-case basis at the beginning of each meeting. This will be facilitated by the Chair. Should a conflict of interest arise, handling of the application will be postponed to the next panel meeting and arrangements will be made to ensure the member in question does not evaluate that application. As soon as a panel member becomes aware of a conflict of interest, for example on opening a case file during the preparation, they must report it to the Secretariat.

3.11 The role of the Chair

- 3.11.1 The Chair of a panel meeting will be one of the three independent members, selected on a rotational basis.
- 3.11.2 The Chair's view does not carry any additional weight to the other members. The responsibilities of the Chair at panel meetings are:
- To ask each member in turn to confirm, as well as confirming themselves, whether they:
 - a. Have any conflict of interest in relation to any of the applications on the agenda.
 - b. Have thoroughly read and acknowledged every page of the case file for each application on the agenda, and are comfortable that they had enough time to do this.
 - c. Can sign the declaration page of their notes in relation to each application.
 - To ask the Secretariat member in attendance whether there are any announcements or updates for the information of the panel.

- To be mindful of, and to take responsibility for, pausing the meeting at any point if there is doubt over whether individual panel members have read and acknowledged every page of an application. The Chair is responsible for ensuring high-quality, robust and appropriate recommendations are provided at the end of the meeting. If any doubt arises over the acknowledgement, absorption or understanding of the material in an application, for the Chair or other panel members, the Chair must pause the meeting and time must be taken to fully rectify the situation, with assistance from the Secretariat if required.
- To ensure the recommendations recorded by the Secretariat at the meeting (through the Secretariat interacting with panel members to confirm the recommendations) comprise only of appropriate, respectful and suitable language.
- To ensure the recommendations take full account of all the information submitted by the applicant in the case file.
- To ensure the recommendations reflect an accurate acknowledgement of the information submitted by the applicant and do not contain factual errors.
- To ensure the interim Property Hardship Scheme policy terms are properly applied.

3.11.3 The Chair or any other panel member can and should ask for advice or assistance from the Secretariat, at any point before or during the meeting.

Appendix A Summary report template

Case number:	
Initials:	
Address:	
Date of application receipt:	
Date of PHS panel meeting application is submitted to:	

PHS criteria	Applicability to applicant	Documentary evidence	Notes (for panel member)
Qualifying interest (Heathrow summary)			
No prior knowledge (Heathrow summary)			
Proximity (Heathrow summary)			
Efforts to sell (Heathrow summary)			
Hardship (applicant's own wording, anonymised)			

Appendix B Panel meeting agenda template

Heathrow Airport Ltd

PHS panel meeting

Date:

Time:

Location:

Panel members:

Chair (independent):

Independent:

Heathrow Airport Ltd:

Secretariat:

[•]

[•]

Agenda

1 Chair's standing items:

(a) Confirmation of no conflict of interest

(b) Assurance of preparation from all panel members

(c) Any questions concerns arising and AOB

2 Preliminaries/notices (PHS Secretariat)

3 PHS applications:

Number	Name	Criteria
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4	Confirmation of recommendations (PHS Secretariat)	
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Declaration

I confirm that I attended the panel meeting on DD MM YYYY. I declare that I have no conflict of interest in relation to the above case(s) and I confirm I have read and acknowledged every page of the above case file(s):

Chair:	Sign:	Date:
Independent:	Sign:	Date:
Independent:	Sign:	Date:
Heathrow:	Sign:	Date:
Airline:	Sign:	Date:

