

Frequently Asked Questions on the Exceptional Hardship Scheme

About the scheme and its launch

What is the Exceptional Hardship Scheme?

The Exceptional Hardship Scheme (EHS) is a voluntary purchase scheme designed to assist certain property owners whose properties may be affected by High Speed 2 (HS2) Ltd's recommended route for a new high speed rail line between London and the West Midlands, and who urgently need to sell their properties before any final decision on a high speed rail line is taken. The property would need to be on or in the vicinity of sections of the HS2 Ltd's route option 3. Those property owners would need to meet certain criteria and would apply for their properties to be bought by the Secretary of State for Transport.

Some examples of the types of circumstances in which people might need to sell their property urgently (and which might demonstrate exceptional hardship) are:

- a change in employment location
- extreme financial pressure
- the accommodation of an enlarged family
- a requirement to move into sheltered accommodation, a nursing home, or with other family members
- a medical condition suffered by a family member living in the property
- the need to release assets in relation to a divorce or in order to avoid threatened repossession

Applicants would also have to demonstrate that they had already made reasonable efforts to sell their property; that it had been on the market for at least 3 months and that no offer had been received of 85% or more of its existing open market property price.

Applicants would also need to demonstrate that their ability to sell their property had been seriously affected and that these difficulties were directly related to High Speed Two's recommended route option rather than other factors.

An applicant would not be eligible for the EHS if they bought their property at a time when they could reasonably have been expected to have been aware of the High Speed Two preferred route option.

How do I apply for the EHS?

We will be publishing guidance on how to apply to the EHS on 20 August. This will be made available on the HS2 Ltd website. Hard copies will also be available from that date via the HS2 Ltd enquiry line.

Why do I have to wait until 20 August to apply for the EHS? Why can't the scheme start straight away?

Now that the Government has decided to introduce an Exceptional Hardship Scheme to support property owners, we are moving quickly to put the processes in place so that applications can be dealt with as soon as possible. Guidance on how to apply for the scheme and the application form will be published on 20 August.

However, in order to help people who might want to apply for the EHS as soon as possible, we have set out the broad categories of evidence which they will need to submit to support their applications. These are set out in Annex A. If applicants do choose to prepare in advance, they will need to refer to the formal guidance that will be published on 20th August to ensure that they are submitting all of the necessary evidence and a completed application form.

When will you publish the guidance on the EHS?

We will be publishing guidance for people who wish to apply to the EHS on 20 August. This will be made available on the HS2 Ltd website. Hard copies will be available from that date via the HS2 Ltd enquiry line.

Does this mean that I have to submit my application by 20 August if I want to apply for the EHS?

No. 20 August is simply the date on which the EHS will start operation. Once it starts you will then be able to submit your application if you believe that you meet the eligibility criteria for the scheme and would like the Government to buy your property. The scheme will remain in place and applications will be able to be submitted until at least such time as the Government takes a decision following public consultation on whether to proceed with a new high speed line and, if so, on the route that it would take. Until then, there will be no deadline by which applications for the EHS must be sent in.

Can I submit my application to the EHS before 20 August?

Unfortunately we will not be able to consider applications submitted before 20 August until the scheme formally opens on that day. Applicants will also need to ensure that their application complies with the formal guidance on applying to the EHS and complete an application form.

Eligibility for the scheme

Will my property be eligible for the EHS?

It would be for the EHS panel to consider your individual circumstances and decide whether you qualify for the EHS and to make recommendations to the Secretary of State as to whether the Government should offer to buy your property on the basis of that. So, we cannot pre-empt the work of the Panel. However, if you believe that you fit the qualifying criteria in the guidance you may submit an application.

It's not fair to only apply the EHS to route 3 only. I live near route 4/2.5 and the value of my house has fallen.

The aim of the EHS is to provide assistance for those whose properties have been most seriously affected by proposals for a new high speed line. Given HS2 Ltd's clear recommendation of route option 3, Ministers recognise that it will be property on or in the vicinity of that route which has been most affected by blight. Therefore, they have decided that the scheme when launched will only apply to such properties.

Why do only commercial properties with an annual rateable value of £34,800 or less qualify? This still excludes many small/medium sized businesses.

This threshold is in line with the arrangements which apply under other blight support schemes such as that for Highways Agency road schemes and Crossrail, as well as the standard arrangements which apply in cases of statutory blight. As such, Ministers believe that this is the right threshold to set to cover the owners of those smaller businesses which are most likely to suffer exceptional hardship if they are unable to sell their properties in the short term.

Why won't the scheme apply to all properties over tunnelled section of the line?

You can find a note giving more information on tunnelling on HS2 Ltd's website <http://www.hs2.org.uk/>, which explains why the impact of any high speed line on properties above tunnelled sections would be likely to be minimal. The Government's view is, therefore, that any effect of blight over tunnels is likely to be limited. However, it accepts the need to make provision for properties which are close to the proposed entrances and exits of tunnels. As such, they would be eligible for the EHS, providing that they met the other eligibility criteria for the scheme.

I live over a tunnelled section of the route. How close will I need to be to the tunnel entrance/exit in order to qualify for the EHS?

Rather than attempt to define an exact distance within which properties could or could not qualify for the EHS, we believe that this is a matter best left for the Panel, who would be able to judge each application on its merits.

I'm getting divorced/need to sell to stop my home being repossessed by the banks etc. Will I qualify for the EHS?

The guidance on applying to the EHS, to be published on 20 August, will give more details of those personal circumstances which might represent "exceptional hardship" and hence qualify a property owner for the EHS, assuming they also meet the other criteria set out. These will not attempt to cover every possible scenario, but would include the urgent need to realise assets in relation to a divorce, or in order to avoid threatened repossession.

I can't meet one of the criteria, but I desperately need to sell. Will the panel have any flexibility to consider my case?

The EHS guidance will give full details of the criteria which property owners will need to meet in order to qualify for the EHS. Beyond that, in exceptional cases, the Panel will also be able to consider applications which do not necessarily meet every one of the criteria.

What happens if I don't qualify for the EHS to start with – or the Panel turns my application down – but then my circumstances get worse? Can I submit a revised application?

Yes, you will be able to submit a further application where your circumstances show a significant change and you have submitted sufficient evidence that illustrates this change.

Is the Government only going to pay me 85% of the value of my property if it agrees to buy it?

No. One of the criteria which you would need to satisfy to qualify for the EHS would be that your property had been on the market for at least three months and that you had not received any firm offers above 85% of its market value. So, for instance, if your house had been valued at £400,000 you had not received any offers of £340,000 or more. This simply reflects the fact that where property owners anywhere are looking to sell their property they might normally be prepared to accept a slightly lower offer, in particular if it was proving hard to sell. A similar 85% threshold has applied to other purchase schemes for properties affected by major transport projects, such as the Channel Tunnel Rail Link and Crossrail.

This would not affect how much you might receive under the EHS. If the Government agrees to buy your property under the EHS it will pay its full market value at the time, ie 100% of its value. This will be its unblighted value, that is the amount it would be worth if there were no proposals to build a high speed rail line nearby.

How the scheme will operate

Why do you need a “shadow” panel? How will it work?

Applications to the EHS will be reviewed by a panel which will in turn make recommendations to the Secretary of State. That panel will have a majority of members who are independent of Government. However, it is likely to take a few months for the Government to be able to appoint fully independent members. Therefore, rather than make those property owners who most urgently need to move have to wait until then, the Government has decided to set up an interim or shadow panel to deal with early applications. Other than in its membership we would expect the interim and final panels to work on broadly the same basis.

Who will sit on the Interim panel?

The pool of panel members will consist of property experts, senior staff of HS2 Ltd and members from outside Government to provide some independent input.

When will the interim/shadow panel be in place?

You will be able to submit applications from 20 August, and the interim panel will start work shortly after that in order to deal with applications.

When will the final panel be in place?

This will depend on how long the recruitment process for fully independent members takes, but we would expect the final panel to start operation around the end of 2010.

What right of appeal will I have against the decision of the Secretary of State?

If the Secretary of State opts not to buy your property, acting on the recommendation of the interim panel, you will be able to resubmit your application to the final panel once it is in place. Appeal arrangements for applicants who apply when the final panel is in place are currently being considered.

Can I submit my application electronically?

No. You will be able to download the application form that will be part of the EHS guidance document from the HS2 Ltd website. You will need to submit your application by post along with any necessary supporting documentation. Full details will be given in the application guidance.

How long will it take for the panel to consider my application?

The Government intends to respond to all applications within 3 months of receipt. However, the aim will be to respond to applications more quickly than that, wherever possible. Equally, where we agree to buy your property we will aim to complete the sale process as quickly as possible.

Will I, or my representative (e.g. my lawyer), need – or be able – to appear before the panel in person to present my case?

No. The panel will consider your case based on the written evidence which you have supplied and you will not need to appear yourself. It may be necessary in some cases, however, to ask you to supply the panel with supplementary information in order for them to consider your case.

Will the valuation of my property be carried out by an independent body?

Yes. If the Secretary of State agrees provisionally to buy your property we will commission independent valuation firms to value your property.

Miscellaneous

Is the EHS my only chance of getting you to buy my house or of getting any compensation?

No. The EHS is aimed at those property owners who urgently need to sell their property before a final decision is taken on whether a new high speed link is to be built and on what its route would be – this is likely to be in late 2011. If, following consultation, a decision is made that the link is to go ahead and on what the route should be, the selected route is then likely to be safeguarded. Safeguarding is designed, amongst other things, to protect route corridors which have already been identified for building transport projects from other new developments which are proposed. For example, if someone else was proposing to build a new supermarket which would block the selected route for the high speed line. The safeguarding is likely to cover those existing properties which would either need to be demolished in order to build or operate the link or which would effectively be made uninhabitable because they were so close to the line.

Safeguarding the selected route for the line would also trigger what are known as statutory blight arrangements. Once these arrangements come into force, the owner of a blighted property who tried to sell it but, because of the HS2 proposals, was unable to do so other than at a price substantially lower than what it would otherwise have been worth, could serve the Government with a “blight notice”. Government may then buy the property at its full market value. However, if the owner did not want to sell their property voluntarily, then the Government would need to use compulsory purchase powers to acquire it. Where this happened, the owner would obviously be fully compensated. At present, the Government has no power to purchase properties compulsorily, and would have to wait until Parliament had voted them the powers. This is unlikely to happen before 2015.

That leaves the question of what provision would be needed to cover those properties whose owners are not looking to sell them in the short term and which would not have to be acquired under the statutory blight procedures in order to build or operate the line but which might still be seriously affected by constructing or operating it. The Government agrees that it is important to make appropriate arrangements to assist those who would be most seriously affected by any new line,

and that the statutory blight regime alone may not be sufficient to achieve this. Therefore the Government intends to put in place some additional provision over and above the statutory blight regime if and when a decision is taken to safeguard a route. Department for Transport officials have been asked to look at the various options for tackling longer term blight so that the Secretary of State can report on his proposed way forward before public consultation on the Government's strategy for high speed rail and the route of any high speed line.

Statute also provides that compensation would also be payable to people affected by the proposals in certain circumstances. This might be available even if it didn't prove necessary for the Government to purchase your property, for example if you suffered from increased noise levels during the building of the line or after it opens. You can find more details on general rules on compensation in a series of guides produced by the Government. These can be found at: <http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyimplementation/compulsorypurchase/compulsorypurchasebooklets>.

The published maps for the proposed route of the rail link suggest that my property will need to be demolished. Does this mean that you will be looking to demolish it soon?

No. At this stage no decision has been taken as to what the final route of any high speed link would be. There will be a full public consultation launched on the Government's strategy for high speed rail, and possible routes, early next year. Only once that consultation is over and the Government has considered the responses to it will a final decision be taken on whether the new link would go ahead and, if so, exactly what its route would be. Even after a decision was taken on any final route, the Government would still need to secure planning permission before any works could begin. It would therefore be several years at least before it would be necessary to take any properties.

Annex A

I would like to start preparing now so that I can be ready to submit my application to the EHS as soon as possible after its launch on 20 August 2010. What can I do?

As noted earlier, the EHS will be open for applications from 20 August 2010, and the Guidance and Application Form will be available on HS2 Ltd's website from that date. In the meantime, potential EHS applicants may wish to consider their application and gather supporting documentation. Core requirements for the scheme and suggestions for supporting documentation to assist in any preparation are set out below.

If applicants do choose to prepare in advance, there may be more specific requests for information when the scheme is launched.

Applicants should not submit any information or supporting documentation to HS2 Ltd or DfT prior to the opening of the scheme on 20 August. It will be imperative that they follow the guidance when it is published and submit a completed application form with any supporting documentation which they consider relevant.

The core requirements for the EHS and examples of supporting documentation are:

1) Exceptional Hardship. Those with a qualifying interest in a property would need to demonstrate that they had a pressing need to sell that property at that time, and that they would suffer exceptional hardship if they had to wait until a decision is made on any high speed rail link between London and the West Midlands and any final route is safeguarded¹. Circumstances which might lead to extreme hardship include (the list is by no means exhaustive):

- A change in employment location
- Extreme financial pressure
- Changed family circumstances such as divorce or the birth of a child
- A requirement to move into sheltered accommodation, a nursing home, or with other family members
- A medical condition suffered by a family member living in the property.

Examples of documentation that would help demonstrate exceptional hardship might be:

- Documentation confirming a change in employment location
- Birth certificates of children living in the property or proof of additional dependents.
- Decree Nisi, Court Order or Tomlin Order setting out the terms of divorce or change in marital status

¹ Safeguarding is a process under which the Secretary of State issues directions to local planning authorities which are designed to protect route corridors which have already been identified for building transport and other projects. Once the directions are made, where a third party submits certain types of planning applications which affect these route corridors – for instance to erect a new supermarket – the applications need to be reviewed in order to safeguard the development of the project which is the subject of the directions.

- Medical report explaining illness or state of health and if applicable reason for need to relocate without delay.

2) Type of property and qualifying interest. The EHS will apply to:

- Owner occupiers of private residential property
- Owner occupiers of business premises whose annual rateable value does not exceed £34,800
- Owner occupiers of agricultural units
- Repossessed properties that the original owner urgently requires the bank or other lender to sell to realise some value
- Properties recently inherited following a bereavement

Applicants will need to provide evidence showing the type of property and ownership, which could be:

- Deeds or Land Registry Office Copy Entry
- Details of any mortgage
- Copy of rates bill or VOA rating assessment if the property applied for is a commercial property
- Death certificate, power of attorney or last will and testament if the applicant is a personal representative of a deceased person
- Utility bills, bank statements, passport or driving licence (for proof of residency)

3) Location of property. The EHS will apply to properties on or in the vicinity of HS2 Ltd's route 3 option, excluding those properties over tunnelled sections but including properties close to tunnel entrances and exits. Applicants will need to provide evidence showing the location of the property with reference to route 3, which could include:

- A copy of the sales particulars of the property
- The filed plan held at the Land Registry
- If an agricultural unit, a plan of that unit
- A map pinpointing the precise location of the property, where identification by address might be difficult

4) Effort to Sell. Applicants would have to demonstrate that they have already made reasonable efforts to sell their property; that it has been on the market for at least 3 months and that no offer had been received within 15% of its existing open market property price (that is the price it would most likely have fetched other than for the HS2 Ltd recommended route 3 option). Applicants would also need to demonstrate that their ability to sell their property had been seriously affected and that these difficulties were directly related to the HS2 Ltd recommended route option, rather than other factors.

Effort to sell could be demonstrated through:

- Instruction letter from an estate agent
- Proof of date on which marketing commenced
- Valuation and marketing proposal letters from prospective agents from whom you took advice prior to placing the property with your appointed agency.
- Evidence of marketing activity and feedback from viewings.

- Other letters and any other relevant documentation held by your agent(s) marketing the property.

5) Prior knowledge of the HS2 proposals. Applicants would need to demonstrate that they could not have reasonably been aware of the route 3 option proposed by HS2 Ltd when they purchased their property. This could be demonstrated through:

- Proof of date of acquisition of the property
- Copies of local authority search reports undertaken at the time you purchased your property if you purchased it after 11 March 2010 (the date on which HS2 Ltd published its proposals).