Guide to the reimbursement of agent fees

For those with a legal interest in land or property that is directly affected by East West Rail.

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1. Introduction

If you are directly affected by the proposed East West Rail (EWR) you are referred to as an Affected Party and this Guide explains how any professional advice you receive can be reimbursed by us (EWR Co).

A glossary is included at the end of this document, which will help explain the key technical or legal terms used.

It is important to get professional advice from a suitably qualified surveyor who has experience with compulsory purchase and compensation. When acting on your behalf, this surveyor is referred to as your Agent. They can support you through the compensation process, including representing your interests in discussions with us.

This Guide explains our discretionary policy in relation to when and how we will reimburse professional fees for agreed services delivered by your Agent. The agreed arrangement will be set out in a Fee Arrangement.

To benefit from our discretionary policy, Agents who are members of the Royal Institution of Chartered Surveyors must confirm their compliance with the RICS Professional Standard in relation to providing advice in respect of compulsory purchase and statutory compensation. We expect all surveyors and other professionals advising people affected by the project to be familiar with this professional standard and to comply with its requirements, in the same way.

In all circumstances and in accordance with the Professional Standard, agents must confirm that ultimate liability for fees is borne by the landowner and not by EWR Co:

'*You must make clear to your client, at the earliest opportunity and before fees are incurred, that they bear ultimate liability for your fees on the agreed fee basis.'*

Your statutory rights to compensation (including professional fees) will not be affected by our policy.

Why we have a discretionary policy

Under the statutory provisions, professional fees are reimbursable after the property has been purchased by the Acquiring Authority or temporarily occupied under a legal notice. As this can take several years, we have introduced a discretionary policy to allow earlier support.

This policy provides a process under which payments can be made earlier, direct to Agents or Affected Parties ensuring all those who are directly affected can work with us and readily access the advice they need to understand what our project means for them.

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This policy is intended to assist residents, small businesses and rural landowners who reasonably need access to professional advice at an early stage of the scheme and who may suffer financial disadvantage from having to pay for professional advice, in advance of being able to recover such costs. Generally, applications under this policy from large organisations or from investment and development companies will not be accepted.

Important Considerations

We encourage you and your Agent to agree a Fee Arrangement with us, but it is important for you to understand the following two points

- The contractual arrangement for the provision of professional advice is between the Agent and the Affected Party, and this relationship is not affected by any Fee Arrangement with EWR Co.

- You are ultimately responsible for your Agent's fees. If your Agent charges more than we consider reasonable, you will be responsible for paying the difference. Your Agent should make you aware that we will only cover the fees set out under a Fee Arrangement with us, before undertaking any work for you. We recommend that a budget and scope is agreed with us prior to fees being incurred.

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2. Agent support

We recognise there will likely be early engagement on a variety of matters, and this engagement is important to us as we develop our DCO application.

Generally, if EWR Co has initiated an activity or scope of work, reasonable fees will be reimbursable in accordance with this Guide.

Examples of reimbursable activities:

- Advice in connection with initial compensation entitlements under the statutory framework, including options for mitigation and, where relevant, advice on submitting a claim
- Meetings at EWR Co's request and your Agent's time for attending meetings with us
- Engagement on scheme design
- Voluntary land agreements or accommodation works
- Reasonable travel costs incurred for a meeting with us.
- Farm Business Interviews (a one-off contribution of £250 +VAT payable either to the Affected Party or Agent)
- Completing Land Information Questionnaires (a maximum of £250 + VAT)

Exclusions to reimbursable activities:

- Representations or responding to consultation
- Avoidable expenses, travel and subsistence
- Duplicated work either undertaken by two members of the same firm, or by a new surveyor following landowner change in Agent

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3. Applying for professional fee reimbursement

Following the steps below helps ensure you secure the advice you need and that fee invoices can be processed by us without delay.

Step one – Finding an Agent

The Royal Institution of Chartered Surveyors (RICS) provides a list of regulated firms who can be contacted for a 30-minute initial consultation The link asks for 'Country, town or postcode' but firms outside your area may also be happy to support you.

Step two -Submitting a Proposal for Fee Reimbursement

Your Agent contacts the EWR Land & Property Team to confirm that they are acting for an Affected Party and begin discussing the reimbursement of professional fees under our policy.

Your Agent should prepare and submit a proposal setting out the hourly rates for the grades of appropriately experienced surveyor and an initial fee cap, in line with our template Fee Arrangement (Appendix A)

In all cases, Agents and Affected Parties should keep costs proportionate and avoid unnecessary expenditure.

Step three – Confirming the Fee Arrangement

We will seek to appoint a Case Manager for your matter. Your Case Manager will review the proposal and provisionally agree an arrangement in relation to the reimbursement of fees. Once this is approved by us, your Case Manager will draft the Fee Arrangement and circulate for signature by us, you (as an Affected Party) and your Agent. The Fee Arrangement confirms acknowledgement of the agreed scope of services, schedule of fee rates, initial fee cap and reimbursement terms.

Your Agent may then update their appointment letter outlining their terms of engagement with you, noting the terms of the Fee Arrangement. A copy of this appointment letter must be supplied to us as soon as reasonably practicable and in any event before the first invoice is issued to EWR Co.

We appreciate that there may be the need to agree updates to the Fee Arrangement for instance if there is a risk that your Agent's fees may exceed the initial fee cap. If this is the case you or your Agent must notify your Case Manager in advance. They will review any

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proposed changes and confirm whether an updated cap is required. Any agreement by EWR Co to amend the agreed cap set out in the Fee Arrangement must be in writing. This helps to avoid delays or disputes over reimbursement.

Step four – Pre-approval of Invoices

Invoices will be reimbursed at appropriate intervals based on the level of progress in relation to engagement and negotiation, as agreed with the Case Manager. This reimbursement process is designed to encourage constructive relationships.

Before submitting an invoice for payment, you or your Agent must first provide a draft invoice for pre-approval, supported by

- A copy of the appointment letter for the Agent.
- Timesheets for review by EWR Co should itemise activity descriptions. EWR Co reserves the right to make comments and only pay towards costs considered reasonable and within the scope of the Fee Arrangement.
- Payment details for the Affected Party and Agent (as applicable), including bank account details
- Confirmation from the Affected Party that payment should be made direct to the Agent or to the Affected Party.
- Confirmation from the Affected Party that the Agent's work has been undertaken to a satisfactory standard, if requested.
- VAT details, including evidence of opting to tax (if relevant).
- Any other information which EWR Co may reasonably request.

Step five – Invoicing, Reimbursement and VAT Treatment

Invoices should be made out to the Affected Party and marked as payable by EWR Co. and must include:

- The name of your Case Manager
- The address of the property Directly Affected by EWR, along with your correspondence address if different
- The unique case reference number issued during non-statutory consultation
- The period covered by the invoice
- A summary of the work completed
- Any relevant supporting documents
- Yours or your Agents banking details and VAT information (depending on who we make payment to)

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A copy of the invoice should then be emailed to your Case Manager copied to land@eastwestrail.co.uk

VAT on professional fees

We will pay VAT on agreed professional fees where it is confirmed that VAT is chargeable and irrecoverable.

The applicable VAT treatment must be agreed with us in advance of invoicing.

VAT will only be paid where expressly agreed and clearly identified on the invoice, including the basis on which VAT is charged.

4. If you need extra support

We recognise that people may need different kinds of support to engage with us. Please can you make us aware of any particular needs you may have, so we can take reasonable steps to respond accordingly. If you need information in a different format—such as large print, or a language other than English—please let us know. We will aim to provide future updates in the format that works best for you. Our aim is to make sure you can access our information and have your voice heard.

5. Contacting EWR Co

If you have any questions about this policy or need further support, please contact the EWR Co Land & Property Team:

- Online: www.eastwestrail.co.uk/get-in-touch
- By email: land@eastwestrail.co.uk
- By phone: 0330 838 7583

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6. Where to get further advice

RICS – Royal Institution of Chartered Surveyors

The RICS Consumer Guide provides a clear, impartial Guide to Compulsory Purchase.

RICS contact details:

- **Website:** RICS
- Email: contactrics@rics.org

CAAV - Central Association of Agricultural Valuers

CAAV contact details:

- Website: CAAV
- Email: enquire@caav.org.uk

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Abbreviations/glossary

Term	Description
Acquiring Authority	An acquiring authority is a body lawfully authorised to compulsory purchase land.
Affected Party	An Affected Party is the registered owner of property or land, or those that benefit from rights in, on over or under land, that is within Draft Order Limits which is all the land and property that may be needed for the scheme as indicated on relevant plans prior to the DCO being consented.
Case Manager	An appointed member of the EWR Land & Property Team to co-ordinate and manage your property matter with EWR.
Development Consent Order (DCO)	A Development Consent Order (DCO) is a piece of law that would give authority to East West Rail Company (EWR Co) to build the new railway. The DCO, if granted by the Secretary of State for Transport, would also provide all the necessary powers to construct and operate the railway, including the necessary compulsory acquisition powers.
East West Rail (EWR)	A proposed new rail link, which would connect communities between Oxford, Milton Keynes, Bedford and Cambridge. The works that will be subject to the DCO application are referred to as the scheme.
EWR Co	The Company set up by the Secretary of State for Transport to develop the scheme. This is the Company, so we use “we, us and our.”
RICS	The Royal Institution of Chartered Surveyors (RICS). The RICS is a worldwide professional body that promotes and enforces the highest international standards in valuing, managing, and developing land, real estate, construction, and infrastructure..

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Appendix 1

Template Fee Arrangement

Template Fee Arrangement

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