

Planning Appeals Commission

Procedures for Public Local Inquiries into Development Schemes

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Introduction

- (1) Although this booklet is not an exact statement of the law relating to public local Inquiries, the information it contains will assist those taking part in Inquiries as objectors or agents.

The procedures set out below have been drawn up under Article 111(5) of the Planning (NI) Order 1991. There are based on the principles of openness, fairness and impartiality which the Commission practices. As there are no statutory rules for the conduct of Inquiries, this document sets out Commission procedures. All are required to follow these procedures and have a duty to act in a fair and reasonable way and to respect rulings by the Commission and/or Commissioner.

- (2) If you need help about pursuing an objection you may wish to contact a professional adviser. Planning Aid Northern Ireland has been set up by the Royal Town Planning Institute for those who cannot afford professional advice and can be contacted at Community Technical Aid, 445-449 Ormeau Road, BELFAST, BT7 3GQ, Tel No 028 9049 3408, E-mail niplanaid@rtpi.org.uk.

The Planning Appeals Commission

- (3) The Planning Appeals Commission (PAC) exists under the Planning (Northern Ireland) Order 1991. It is an independent body which, at the request of the Department for Social Development (Department) conducts Inquiries to hear objections and to report on them to the Department. The PAC is not part of any Government Department.

The PAC report on an Inquiry can be made by:

- (a) a single Commissioner reporting directly to the Department, or
- (b) a panel of Commissioners, all appointed to conduct the Inquiry reporting directly to the Department; or
- (c) a panel of Commissioners, including the appointed Commissioner(s) and other Commissioners, considering the appointed Commissioner's report and then reporting to the Department.

- (4) Members of the PAC are called Commissioners and they are public appointees. They have varied backgrounds and qualifications including town planning, architecture, environmental science, surveying and law. They make recommendations to the PAC or the Department on the outcome of objections after studying written submissions from the parties involved and after conducting the Inquiry.

- (5) The Commissioner (or the Panel of Commissioners) makes recommendations on the evidence presented to it in each objection and, based on that evidence, aims to make recommendations in an efficient manner through the most effective procedures appropriate to each objection. To do this Commissioners require the co-operation of all involved. The PAC is committed to ensuring that the Inquiry process is as user friendly as possible and involves the best possible use of resources.
- (6) Administrative staff are responsible for the day-to-day operation of the PAC's work. While they are available to deal with enquiries from the public about procedures, they are unable to comment on the merits of individual objections or offer advice or guidance on the possible outcome of any case.

The Legislation

- (7) Development Schemes and Acquisition of Land is considered at Part VII of the Planning (NI) Order 1991. Acquisition of land by Vesting Order is set out at Schedule 6 of the Local Government Act (NI) 1972, as amended by Schedule 2 of the Planning (NI) Order 1991.

Role of the Department before the Inquiry

- (8) If the Department decides that an area should be developed or redeveloped comprehensively, it draws up a scheme for that area (the Development Scheme) setting out how the whole area should be developed or redeveloped. To ensure the comprehensive scheme is implemented, the Department may acquire land from the existing owners by agreement or by compulsory acquisition (the Vesting Order). Unless the Department has already acquired the necessary land by agreement, the Development Scheme is accompanied by a Vesting Order schedule and map which specifically identifies the properties the Department proposes to acquire. The Department, after consulting the District Council, prepares the Development Scheme and publishes notices indicating where and when it can be inspected. The Department publishes notice of the Vesting Order and serves notice on everyone with an estate in the land affected.
- (9) Objections may be made to both the Scheme and the Vesting Order and if the Department is unable to resolve the objections it may ask the PAC to hold public local inquiries into the Scheme and the Vesting Order. These inquiries are held consecutively beginning with that into the Development Scheme. For ease of reference, these consecutive inquiries are referred to as a single inquiry in this booklet. While anyone affected by a Vesting Order may be entitled to compensation, the extent of this compensation is finally decided, not by the PAC, but by the Lands Tribunal.

Organisation of the Inquiry

- (10) The Inquiry is organised by the PAC and the organisation commences when the PAC receives a request from the Department to conduct a public Inquiry. An Administrative case officer is appointed. The Chief Commissioner appoints a Commissioner or Commissioners to conduct the Inquiry and decides the type of Inquiry report. The Chief Commissioner will decide whether the PAC report of the Inquiry shall be made by the Commissioner who conducts it or by a Panel of Commissioners, some or all of whom may be conducting the Inquiry. If a Panel is appointed, the Chief Commissioner will nominate a chairman who will have a casting vote. There are two types of Inquiry report: -
- (a) a **full report** summarises the cases for the parties followed by the Commissioner's or the Panel's reasoning and recommendation for each objection or group of objections;
 - (b) a **short report** does not summarise the cases for the parties but sets out the Commissioner's or the Panel's reasoning and recommendations.

As the Commission is reporting to the Department, it will seek the Department's view on whether it would prefer a full or short report. The Chief Commissioner will make the final decision on the type of report.

- (11) To enable everyone to submit their evidence in writing before the Inquiry starts and to ensure that large inquiries run efficiently, the PAC usually organises three pre-Inquiry meetings. For smaller inquiries fewer pre-Inquiry meetings may be sufficient. Appendix 1 sets out the main events in organising the Inquiry.

Notification of Arrangements

- (12) The PAC writes to the Department and all objectors informing them of the time and place of the Inquiry and pre-Inquiry meetings. A questionnaire is enclosed for objectors asking them to indicate how they intend to proceed. There is a sample questionnaire at Appendix 2. These questionnaires are used to draw up the programme for the Inquiry and it is therefore important that they are carefully completed. If on your questionnaire you nominate an agent to represent you, the PAC will correspond with your agent and not with you.

The PAC will consider all objections to the Development Scheme and Vesting Order which have not been withdrawn. All such objectors will receive a written response (a rebuttal) to their original letter of objection from the Department. You may rely on your original letter of objection to the Department and make no further submission.

How to Pursue an Objection

- (13) There are two methods of pursuing objections. You should select **one** of these and indicate this on your questionnaire.
- (a) make a further written submission replying to the Department's rebuttal but not take part in the Inquiry; or
 - (b) make a further written submission responding to the Department's rebuttal and take part in the Inquiry.

You should indicate how you wish to pursue your objection on the questionnaire by ticking Option 2 **or** Option 3. If you do not return the questionnaire by the set date, the PAC will assume that you intend to rely on your original letter of objection (Option 1) and no further correspondence about the Inquiry will be sent to you.

- (14) When the Inquiry is dealing with the Development Scheme, objections may be considered under a number of topics such as planning policy, traffic, and effect on the built environment. The Commissioner will set these out at the first pre-Inquiry meeting and will ask that written submissions be organised in that form. When the Inquiry deals with the Vesting Order, objections will be considered for individual properties or by groups of individual properties in accordance with a programme set out by the Commissioner.

If you are taking part in the Inquiry the PAC expects that all points you wish to rely and all evidence to support your case (including the evidence of all your witnesses) is set out in your written submission. The introduction of new points at the Inquiry should be avoided as it could result in adjournment of the Inquiry, wasting everyone's time.

(a) Further written submission but not take part in the Inquiry

Tick Option 2 on the questionnaire. Written submissions should be given to the PAC at the 3rd pre-Inquiry meeting.

(b) Further written submission and take part in the Inquiry

Tick Option 3 on the questionnaire. Objectors' written responses (written submissions) to the Departmental rebuttal should be submitted at the 3rd pre-Inquiry meeting.

At the Inquiry, objections will be considered in accordance with the final Inquiry programme. Rebuttals or responses need not be read out at the Inquiry which will concentrate on the issues remaining in dispute.

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- (15) The Departmental rebuttals of each objection should address the issues raised by the objection concisely but comprehensively, ensuring that all relevant information is included. Objectors' submissions should set out fully the points they wish to raise. The submission should not be confined to comments on the Departmental rebuttal but should include all points relevant to the case and, as appropriate, should indicate how the Scheme and/or Vesting Order should be altered to take account of their objection. It should be noted that the area or scope of the original objection submitted to the Department cannot be extended but, if necessary, the reasons for objecting could be expanded.

There should be four copies of all submissions and maps should be A3 or A4 size only.

Parties pursuing the same objection

- (16) The PAC encourages such parties to join together to prepare written submissions and/or to participate in the Inquiry. The substance of representations is of more significance than the volume of objectors. A single submission produced jointly is acceptable and spokespersons can be chosen to deal with separate issues and to ask and answer questions or discuss issues on behalf of the group at the Inquiry. The Inquiry spokesperson can be assisted by the group during the Inquiry. Similarly, agents representing groups pursuing the same objections should co-operate with one another.

Changing your mind

- (17) Objections may be withdrawn at any time and the objector or agent should confirm the withdrawal in writing. The PAC will notify the Department if an objection is withdrawn. If an objector indicated on the questionnaire that he wished to take part in the Inquiry (ticking option 3) and wishes to change to one of the other options, he can do so. Or if an objector is taking part in the Inquiry and had selected the formal procedure, he can change to the informal or to the combined procedures (Procedures at the Inquiry are explained at paragraphs 20 to 29).

The PAC should be informed immediately of any change of mind. Objectors and agents should be particularly careful if they have indicated that they are participating in the Inquiry. It is wasteful of everyone's time and simply bad manners if objectors and/or agents do not appear at organised Inquiry sessions.

The Pre-Inquiry Meetings

- (18) These meetings are held well in advance of the opening of the Inquiry to organise the Inquiry, to enable the distribution of Departmental rebuttals and the submission of evidence from objectors. Pre-Inquiry meetings are attended by Commissioners, Administrative staff and Departmental officials and are usually held in the evenings.

The **first pre-Inquiry meeting** is normally conducted by the Chief or Deputy Chief Commissioner. The procedures to be followed at the Inquiry are explained and a draft programme for the Inquiry, based on questionnaire returns is discussed. This first pre-Inquiry meeting also enables objectors to meet one another, facilitating co-operation if they are pursuing the same point or objection.

The **second pre-Inquiry meeting** is conducted by a Commissioner and objectors will receive the Departmental rebuttal of their objection. If the objector does not attend the meeting, the Departmental rebuttal on the objection will be posted to him/her. A more detailed Inquiry programme will be discussed and any procedural problems arising can be discussed.

The **third pre-Inquiry meeting** is conducted by a Commissioner and objectors can submit their responses to the Departmental rebuttals. The Inquiry timetable can be further discussed and refined and any procedural problems can be discussed.

The final Inquiry programme is sent out to everyone who is participating in the Inquiry, usually two weeks before the Inquiry opens.

If anyone wishes to attend the pre-Inquiry meetings and/or observe or take part in the Inquiry and has special needs such as a requirement for disabled access, they should contact the PAC at an early stage so that appropriate arrangements can be made.

The Public Inquiry - What happens?

The Public Inquiry is controlled by the presiding Commissioner who will apply the principles of openness, fairness and impartiality. The Commissioner follows accepted PAC practice and procedures though he/she may depart from this if he/she judges it appropriate. The Inquiry will run smoothly if all co-operate with the Commissioner. All participants have a duty to act in a fair and reasonable way and to respect rulings by the Commissioner.

- (19) The Commissioner will direct when parties should speak or ask questions and any problems should be raised with him/her **in public** at an appropriate time during the Inquiry. The Commissioner will ensure that all are given an opportunity to express their views and to ask and answer questions as appropriate.
- (20) **The Inquiry commences** with an opening statement by the Department. This sets out the statutory basis for the preparation of the Scheme and Vesting Order and the aims, objectives and strategy of the Scheme and Order. There will be no questions or discussion on the opening day on this Departmental statement. Any relevant matters can be raised with the Department when objections are being considered. Copies of this opening statement will be available on request from the Department from the opening day of the Inquiry.
- (21) **Objections are then heard** in accordance with the final programme. This will have been issued to all who stated that they wished to take part in the Inquiry. Objections to the Development Scheme are considered first on the basis of a series of topics. Objections to the Vesting Order are then considered by individual properties or by groups of individual properties. Documents submitted in advance are not read out at the Inquiry. The Inquiry will concentrate on discussing or questioning the points raised in these documents. The Department may call a range of witnesses from other government departments, public bodies or consultants to defend its Scheme.

Procedures at the Inquiry

- (22) Objections may be heard at the Public Inquiry using the formal procedure, the informal procedure or a combination of both (the combined procedure). The efficient and effective use of Inquiry time, the PAC encourages individual objectors or small groups of co-operating objectors to use the informal procedure. The objector chooses the procedure and this is indicated on the Inquiry programme.

The purpose of the Inquiry is to enable objectors to explain their objections. The presiding Commissioner will ensure that this is done in a way with which the public is most comfortable. The Administrative staff and Commissioners at the Inquiry and pre-Inquiry meetings will assist everyone with procedures though they will not discuss the planning merits of any case.

Formal Procedure

- (23) If the **formal procedure** is being used, those taking part may **briefly** summarise their cases and rebut points made in opposing cases. This is probed through questioning by the other parties and by the Commissioner. The usual order of presentation and questioning is Department and then objector. There are no formal closing statements.
- (24) Keep the opening summary of the case precise. As the PAC requires all issues and relevant material to be contained in the written documents submitted in advance, it is not expected that new issues will be raised at the hearing of the objection although the Commissioner's attention should be drawn to changes that have taken place since the written submissions were produced. Try not to repeat points, as the Commissioner only needs to hear a point once. Further documents will only be accepted at the discretion of the Commissioner. If they are accepted, sufficient copies must be made available for the PAC and the other participating parties. If parties have reached agreement on aspects of the objection or technical evidence this should be identified to the Commissioner, but the hearing of the objection will not normally be postponed to allow negotiations.
- (25) **Questioning of evidence** assists the Commissioner in deciding what weight to give to that evidence. It is most useful to the Commissioner when it tests the validity of facts, assumptions, opinions and conclusions and exposes any defects in the witnesses' statements. Don't raise issues through questioning which can be more clearly and concisely covered in direct evidence. Questions to a witness should be clear and brief and witnesses should not be interrupted when replying. If anyone wishes a witness to comment on a document they should give reasonable advance notice of the document and if a comment is requested on an extract from a document, the entire document should be produced at the Inquiry. Persistent and repetitive questions seeking to change the mind of a witness should be avoided. All witnesses must answer the question and can be pressed about their evidence and expert witnesses should expect to face robust questioning. However bullying tactics are out of place and questioning should not be aggressive. Non-expert witnesses should be questioned sensitively. While genuine wit and humour are not out of place, irrelevant asides and sarcasm are unhelpful and must be avoided.

The Commissioner takes an active role in investigating evidence relating to the issues raised and will generally ask questions throughout the proceedings.

- (26) **Questioning by those pursuing the same issue** - As a general rule, the presiding Commissioner will not permit questioning between those parties who are pursuing the same issue, for example an objector may not question other objectors. There may occasionally be some differences in views between parties even though they are pursuing the same issue. For example, Objector A may present evidence which is unfavourable to Objector B. If this occurs B may apply to the presiding Commissioner to question A.

Informal Procedure

- (27) If the **informal procedure** is being used the presiding Commissioner will briefly summarise the points raised by each party, will identify the issues requiring further clarification and will lead a round-table discussion of these issues. All parties are given the opportunity to get involved in the discussion and to rebut points raised by opposing parties. All parties may be assisted in the discussion by an agent or advisor although this is not essential and legal representation should not normally be necessary. If the informal procedure is chosen there is no formal questioning of participants.

Combined Procedure

- (28) If a **combination of formal and informal procedure** is being used, those taking part may briefly summarise their cases and rebut points made in opposing cases. The Commissioner then leads a round-table discussion on identified issues. When this is completed, if there are any remaining issues, the parties may deal with these by formal questioning.

Observing the Inquiry

- (29) If you are not participating in the public Inquiry but just wish to observe you may do so. The updated Inquiry programme is available at the Inquiry venue and on the PAC website. You may also contact the PAC Administrative staff at Park House, Belfast, for further information.
- (30) The Inquiry is a public forum, all statements are made in public and all documents presented become public. The press regularly attends and members of the public may attend as they wish. There is no 'live' coverage of sessions of the Inquiry by radio or TV. Proceedings may be recorded only with the prior permission of the presiding Commissioner and copies of the tapes must be provided for the PAC and all who request them.

If anyone wishes to attend the Inquiry to observe or take part and has special needs such as a requirement for disabled access, they should contact the PAC at an early stage so that appropriate arrangements can be made.

Close of the Inquiry

- (31) When all the objections have been heard, the Commissioner will close the Inquiry. **Submission of new evidence after the close of the Inquiry is only acceptable in exceptional circumstances and with the prior agreement of the Chief Commissioner.** All parties concerned will be invited to comment upon such evidence within a specified period. When closing the Inquiry the Commissioner will indicate when the Inquiry report is expected to be delivered to the Department. This date is also noted on the PAC website.
- (32) The appointed Commissioner(s) will consider all the evidence presented on each objection, will visit sites as appropriate and will prepare the Inquiry report. A **full Inquiry report** will concisely but comprehensively summarise the evidence presented and indicate the Commissioner's reasoned consideration and advice for each objection or group of objections. A full report is necessary when Commissioners other than presiding Commissioners are involved in deciding PAC recommendations to the Department. A **short Inquiry report** will not summarise the evidence presented but will indicate the Commissioner's reasoned consideration and advice for each objection or group of objections. A short report is appropriate when presiding Commissioners are reporting directly to the Department.

The arrangements for visiting sites will be explained at the pre-Inquiry meetings and at the Inquiry but there are generally no site visits when the parties accompany the Commissioner(s).

- (33) If the recommendations and advice to the Department is to be made by a Panel of Commissioners, the Panel usually visits the area covered by the Development Scheme and Vesting Order and, as required by the Planning Order, decides collectively its recommendations to the Department on each objection. The Panel may decide not to accept the advice of the reporting Commissioner if it reaches a different conclusion on the evidence. When this occurs the Panel's reasons for doing so will be set out in its report to the Department, a separate document which is attached to the front of the appointed Commissioner's report. The reports of the PAC (Panel) and the Commissioner(s) are presented to the Department. When this happens it is noted on the PAC website. As the PAC is required by the Planning Order to report to the Department, neither the PAC report nor the Commissioner's report is released to the public at this stage.

Role of the Department after the Inquiry

- (34) The Department must consider objections made and the PAC's report of the Inquiry. The Department may, by Statutory Order, adopt the Scheme with or

Please note word change as highlighted below and replaces the existing paragraphs on complaints procedure

without amendments or may reject the Scheme. Notice of the adoption of the Scheme must be advertised and a copy of the final Scheme made available for inspection by the public. The Department also considers objections to the Vesting Order and the PAC's report of the Inquiry and then decides whether to make the Vesting Order with or without modifications, serving notice of the Order as appropriate. The PAC's report on the Inquiry is released at this stage.

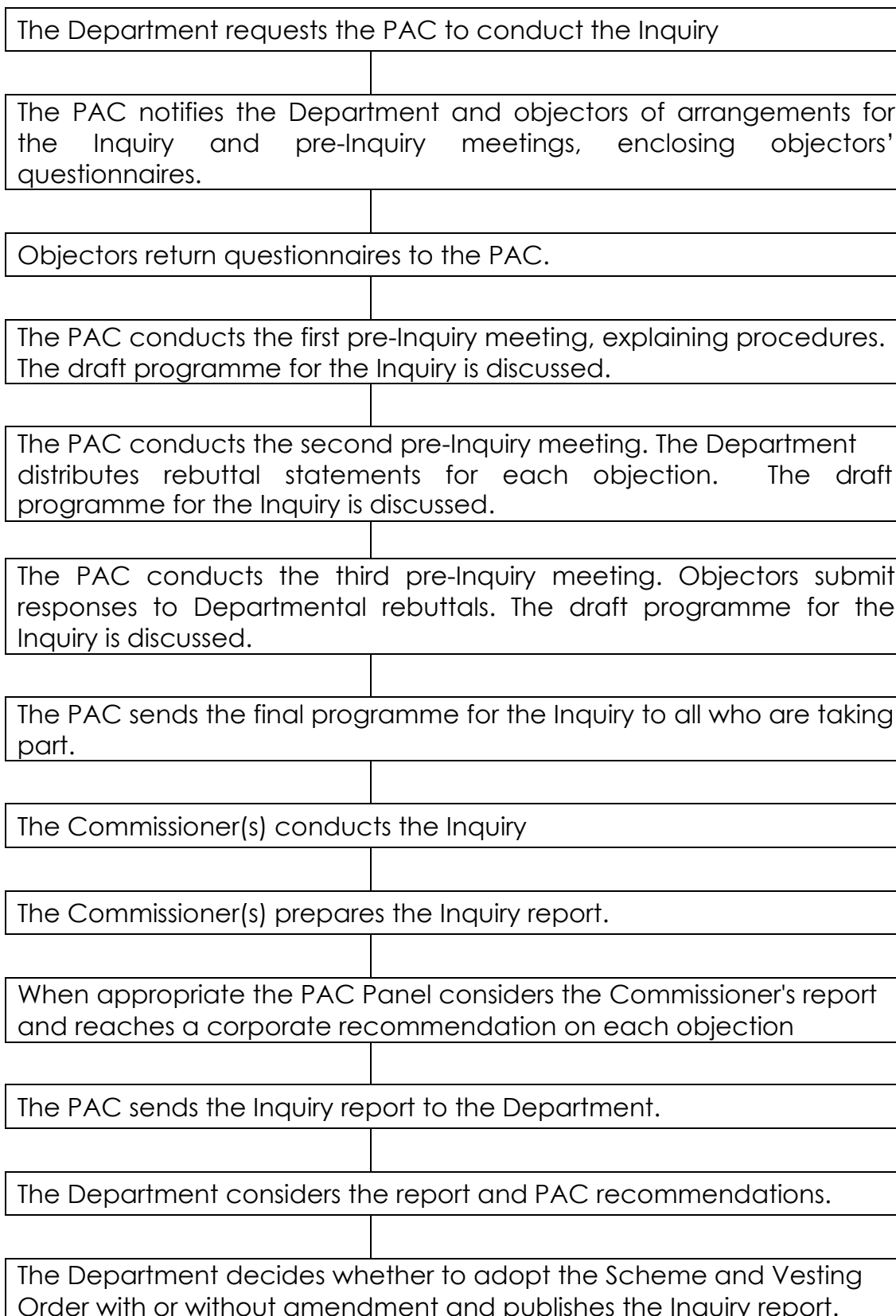
Complaints

- (35) A complaint is any expression of dissatisfaction, by anyone involved in the process, about the way the PAC handled an objection. Complaints must be made within six months of the Department's decision on the Scheme or Vesting Order. A complaint should be made in writing to the Chief Administrative Officer of the PAC and will normally be acknowledged within 7 working days of receipt. Letters of complaint received while an objection is still being considered will be sent to other parties if they have a bearing on the merits of the objection. Complaints will be investigated and a full reply will normally be issued within 4 weeks. Where this is not possible a holding reply will be issued within the 4 weeks indicating when a full response will be made.
- (36) All complaints are investigated at management level by persons not directly involved in the matter giving rise to the complaint. Anyone dissatisfied with the written response to their complaint **may request** a meeting to discuss the matter. Complaint files are open for public inspection.
- (37) An independent Complaints Audit Panel, consisting of two members appointed respectively by the Royal Town Planning Institute and the Bar Council, reviews the operation of the Complaints System on an annual basis and presents a report to the Chief Commissioner which is available to the public.

Complaints to the Parliamentary Ombudsman for Northern Ireland

- (38) If you have a complaint about maladministration by any member of the PAC's administrative staff you can ask the Ombudsman to investigate the matter. The Ombudsman should be approached through an MLA or MP. The Ombudsman has no power to question the merits of the Commissions or the Commissioner's recommendation on an objection.

The Inquiry Procedure - The Main Events



OBJECTORS' QUESTIONNAIRE (SAMPLE)

PUBLIC LOCAL INQUIRY

PAC REF:
OBJECTION NO:

Planning Appeals Commission
4th Floor, 92 Ann Street,
Belfast
BT1 3HH
Tel: 028 90244710
Fax: 028 90312536
Website: www@pacni.gov.uk

THIS FORM MUST BE RETURNED TO THE COMMISSION OFFICES BY . IF THE FORM IS NOT RETURNED BY THIS DATE IT WILL BE ASSUMED THAT YOU INTEND TO RELY ON YOUR ORIGINAL LETTER OF OBJECTION (OPTION 1) AND NO FURTHER CORRESPONDENCE ABOUT THE INQUIRY WILL BE SENT TO YOU

Name of Objector:

Address:

Telephone Number::

Name of Agent: (if any)

Address:

Telephone Number:

OPTIONS (✓ one box only)

- | | | | |
|----|--|--|--|
| 1. | I will rely on my original letter of objection and will make not further submission and will not take part in the Inquiry. | | |
| 2. | I/my agent will make a further written submission by and will not take part in the Inquiry. | | |
| 3. | I/my agent will make a further written submission by and will take part in the Inquiry. | | |

If you have chosen Option 3, which procedure will you use at the Inquiry (✓ one box only)

Informal Procedure

Combined Procedure

Formal Procedure

Inquiry procedures are explained at paragraphs 20 to 29 of "Procedures for Public Local Inquiries into Development Schemes", available from the Commission and on the Commission website.

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