



Wac

**Water Appeals
Commission**

**THE PLANNING AND WATER
APPEALS COMMISSIONS**

**Business Plan 2010/11
Corporate Plan 2010/11 - 2012/13**

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**MAIRE CAMPBELL
Chief Commissioner**

June 2010

INTRODUCTION

The Commissions

The Planning Appeals Commission is an independent tribunal frequently referred to as either “the Commission” or “the PAC”. It is provided for in Article 110 of the Planning (Northern Ireland) Order 1991. The Water Appeals Commission (referred to as “the WAC”) is a separate appellate body originally set up under Article 7 of the Water and Sewerage Services Northern Ireland Order 1973 and now provided for under Article 292 of the Water and Sewerage Services (Northern Ireland) Order 2006 . The Commissions are separate from any Assembly Departments and they are sponsored by the Office of the First Minister and deputy First Minister (OFMDFM).

The Commissions determine appeals or report on referred matters to Assembly Departments on matters referred to them by Departments. These Departments are - Department of the Environment (DOE), Department for Regional Development, Department for Social Development, Department of Agriculture and Rural Development, OFM/DFM, Department of Culture Arts and Leisure, Department of Enterprise Trade and Investment and District Councils.

The Chief Commissioner is responsible to OFMDFM for the efficient and effective delivery of service. However, as far as the Commissions decisions are concerned, the Commissions are solely responsible to the Courts.

Staff Resources

There are currently 21 full-time Commissioners. Panel or fee by case Commissioners may also be appointed and there are currently 17. All Commissioners have professional qualifications in either planning or related disciplines and are public appointees. All full-time members of the PAC are members of the WAC.

The Commissions’ administrative staff are civil servants provided by OFMDFM. There are currently 20.

VISION, CORE VALUES, AIMS AND OBJECTIVES

Vision

The Commissions’ vision is to:

- p**rovide a fair, efficient and effective appellate service to the public;
- a**pply expertise and experience to information gathered through the process; and
- c**ontribute to the quality of our environment by making the best possible decisions.

Core Values

The Commissions, as independent appellate bodies, attach great importance to the following values in the exercise of their work and are committed to achieving and maintaining a high standard of consistency and excellence.

Impartiality
Integrity
Openness
Fairness
Professionalism
Quality
Valuing workforce
Customer Care

Aims and Objectives

In seeking to make a positive contribution to the environment and quality of life in the region, the Commissions' aim is to maintain their independence, free from any improper influence or external control.

In pursuance of this aim the Commissions' objectives are:-

1. To make the best possible appeal decisions and offer the best possible advice to Departments, consistent with the evidential context within which appellate functions are exercised.
2. To provide an efficient and effective service compatible with the maintenance of quality, high professional standards and available resources.
3. To provide clear, readily available and up to date information and guidance to all who come into contact with the Commissions.
4. To achieve all performance measures and targets set by the Commissions.
5. To train, develop and maintain an efficient, well-motivated and united workforce.

WORKLOAD

1. Appeal Workload

(a) Planning Appeals

Year	2005/06	2006/07	2007/08	2008/09	2009/10
Appeals Received	1,265	2,765	1,516	515	515

The table indicates the annual intake of planning appeals to March 2010. While the intake over the last two years could indicate stabilisation, some increase in intake in future years should be planned for to take account of these factors:-

- (i) Rural planning policy (Planning Policy Statement 21) was finalised on 1 June 2010. Since 2008/09 Planning Service has deferred the issue of some decisions (around 2,500) until the policy is finalised. The issue of these deferred decisions could result in a significant number of appeals in 2010/11.
- (ii) Due to the sharp increases in the annual intake of appeals 2004-2008 and because it deals with most appeals in the chronological order in which they were submitted, PAC has been failing to meet its timeliness targets for determining appeals. As this position begins to improve, probably in 2010/11, an increase in appeals in default of a decision by Planning Service (Article 33 of the Planning Order) is likely.
- (iii) The planning reforms announced in March 2010 include a proposal to reduce the time period to appeal from 6 to 4 months. Based on a similar proposal in England and Wales, this could result in an increase in the number of appeals submitted. This measure is unlikely to be enacted before mid 2011.

The planning reforms also propose to introduce a system for applications for awards of costs in some appeals. While this will not increase the number of appeals submitted, it will increase the PAC workload in determining those appeals.

(b) Enforcement/Legal/Environmental Appeals

DOE continues to be proactive in addressing breaches of planning and pollution control, resulting in an increase in appeals in this area.

Year	2005/06	2006/07	2007/08	2008/09	2009/10
Enforcement/LDCs	38	46	115	118	150

The requirement to comply with Environmental Regulations (Industrial Pollution and Waste and Contaminated Land Controls) has resulted in a limited number of appeals and this is likely to be maintained over the next three years. In addition PAC has been nominated as the appellate body for a range of new Environmental Regulations. This is also likely to result in a limited increase in appeals.

These appeals raise complex legal and technical issues; they are therefore time consuming to determine and may require the appointment of assessors to assist Commissioners. In addition a number of these appeals can involve breaches of control. Accordingly, subject to the availability of Commissioner resources, they are accorded priority.

(c) Future Appeal Workload

Notwithstanding the continuing economic downturn, the above factors suggest that the intake of planning appeals over the next 3 years could be as follows. This would provide the receipts indicated below (at current appeal fee rates).

Year	2010/11	2011/12	2012/13
Predicted intake of planning appeals	870	1,000	1,000
Approximate appeal receipts at current fee rates	£110K	£126K	£126K

2. Referred Workload

(a) Development Plan

PAC is currently dealing with the following draft Plans, requiring the indicated Commissioner resources.

- Belfast Metropolitan Area Plan, 4 Commissioners, Public Inquiry completed, report to be delivered in 2010.
- Magherafelt Area Plan, 3 Commissioners, Public Examination completed, report to be delivered in 2010.
- Banbridge/Newry and Mourne Area Plan, 3 Commissioners, Public Examination completed, report to be delivered in 2011.

PAC has had discussions with DOE about the referral of the Northern Area Plan in 2010/11. Work on this is likely to involve 3 Commissioners.

The proposals for the Review of Public Administration involve transfer of planning powers (including plan making powers) to local Councils. These proposals are programmed for implementation in Spring 2011. Accordingly from 2012, there could be an increase in development plan work for PAC as local Councils publish Local Development Plan Strategies for their areas. The planning reform proposals envisage the strategy being followed, within 12 months, by Site Specific Policies and Proposals.

Accordingly over the next 3 years, possible Commissioner involvement in referred area plan work is as follows:-

Year	2010/11	2011/12	2012/13
Commissioners on plan work	7	6	6

This indicates a reduction in the commitment of Commissioner resources to plan work, compared to 2008-10. The previous levels of commitment were made at a time when no major proposals had been referred. This position changed significantly in 2008/09 (see below) and has resulted in an imbalance in allocation of Commissioner resources across all areas of work in the last two years. As development plan work requires a long term commitment of Commissioner resources, PAC has been unable to rectify this imbalance.

(b) Major Proposals (Article 31 and Development Schemes)

Caseload in this area was very low until 2008/09 when 8 major proposals were referred by DOE. Four further proposals were referred in 2009/10. On 16 March 2010 the DOE Minister announced that he would be referring a proposal to extend the runway at Belfast City Airport and that he would be requesting that the Inquiry is given a high priority. In addition further proposals have been indicated for referral.

The position in respect of major proposals is as follows:-

For Processing

- Sprucefield Retail proposal - the Public Inquiry arranged for December 2009 had to be postponed; a second similar proposal was referred to PAC in February 2010 and the Public Inquiry is arranged for June 2010 (2 Commissioners).
- Newtownards Retail proposals (2).
- Antrim Warehouse proposal.
- Londonderry office proposal.
- Lisburn Retail proposal.
- Castlereagh Road Retail proposal.

Awaiting referral

- Belfast City Airport, runway extension.
- Larne Marina.
- Lisburn Food Superstore.
- Cathedral Way Belfast, mixed use development.
- Royal Avenue, Belfast, mixed use development.

Not for Processing

- Strabane and Londonderry Retail proposals - as alternative development proposals are being processed, PAC has informed DOE that it will take no action in respect of the referred proposals.
- Sprucefield Retail proposal (first application) - PAC has informed DOE that it considers this application to be refused.

Given the economic significance of the major proposals, PAC is under pressure to allocate Commissioner resources to consider them expeditiously. Experience has indicated that only full-time Commissioners are appropriate for referred work. As Commissioner resources are released in 2010/11 from reporting on objections to draft Development Plans, they will be allocated primarily to priority appeal work and reporting on major proposals.

3. Water Appeals Commission

Following the implementation of provisions in the Water (NI) Order 1999, the volume of appeal caseload to the Water Appeals Commission has reduced substantially. Based on current information, this workload is not expected to be significant over the next three years.

4. Managing Predicted Workload

It is an objective of the Commissions to provide an efficient and effective service compatible with the maintenance of quality, high professional standards and available resources. Accordingly the Commissions must balance Commissioner resources across all aspects of its workload - appeals, priority appeals, development plan and major proposals. Over the next 3 years the Commissions will ensure that adequate Commissioner resources (full-time and Panel) will be retained to enable the processing of up to 1,000 appeals per annum. The use of written representation procedures will be encouraged and Panel Commissioners will be allocated to determine these appeals. Full-time Commissioners will be retained for the determination of complex appeals requiring hearings, including priority appeals.

As appropriate, teams of Commissioners will be allocated to referred work - development plan and major proposals. This will ensure the efficient and effective conduct of proceedings and the timely production of reports.

FINANCE

The Commissions are funded on an annual basis through OFMDFM programmed expenditure. The following budget has been indicated for 2010/11:-

Proposed baseline	£2,396K
Proposed retained receipts	£ 376K
Proposed total	£2,772K
Receipts based on predicted appeals	£ 110K
Short fall	£ 266K

Note: Above figures to be adjusted to take account of the loss of 1.6 admin posts. The budgets for 2011-2013 have not yet been agreed and will be decided as part of the Budget 2010 process.

TRAINING AND DEVELOPMENT

The Commissions are committed to on-going improvement and continuous professional development for all staff. The Commissions recognise that any cost incurred in the development of its staff is an investment and necessary to ensure the delivery of an effective and efficient public service.

PUBLIC PROFILE

The Commissions will continue to provide presentations to Assembly Departments and Committees, District Councils and public representatives, professional bodies and other organisations as requested. The Commissions will meet with other key stakeholders as programmed.

PERFORMANCE MEASURES AND TARGETS

APPEALS - EXCLUDING ENFORCEMENT CASES

1. We will decide 80% of appeals by formal hearing within 30 weeks.
2. We will decide 80% of appeals by informal hearing within 27 weeks.
3. We will decide 80% of appeals by written representation within 24 weeks.

EXAMINATIONS/PUBLIC INQUIRIES/HEARINGS

4. If a public meeting is required we will provide a Commissioner to conduct such a meeting in 80% of cases within 16 weeks of the receipt of the request and all relevant documents from the Department.

5. If a public meeting is not required we will provide a Commissioner to conduct 80% of examinations/public inquiries/hearings within 24 weeks of the receipt of the request and all relevant documents from the Department.
6. We will deliver 90% of all reports on examinations/public inquiries/hearings to Departments by the indicative date announced at the end of the public proceedings.

COMPLAINTS

7. We will acknowledge all written complaints within 7 working days of receipt and issue full or holding replies to 95% of all complaints within 4 weeks of receipt.

EFFICIENCY

8. We will continue to explore measures to increase the efficiency and effectiveness of the service provided.
9. We will continue to promote the use of the written representation procedures.

QUALITY

10. We will, through effective training and development, ensure that justified complaints and successful High Court challenges do not exceed 1.5% of the intake of cases over a rolling two-year period.