



Wac

**Water Appeals
Commission**

THE PLANNING AND WATER APPEALS COMMISSIONS

**Business Plan 2011/12
Corporate Plan 2011/12 - 2013/14**

C O N T E N T S

	Page No
Introduction.	3
Vision, Core Values, Aims and Objectives.	3
Workload.	5
Finance, Training and Development, Public Profile.	8
Performance Measures and Targets.	8

**MAIRE CAMPBELL
Chief Commissioner**

June 2011

INTRODUCTION

The Commissions

The Planning Appeals Commission (PAC) is an independent tribunal. It is provided for in Article 110 of the Planning (Northern Ireland) Order 1991. The Water Appeals Commission (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. 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. There are currently 17 Panel or fee by case Commissioners but by September 2011, there will be 3. Additional Panel Commissioners were appointed in September 2008 to address the backlog of planning appeals which had developed since 2005/06. As this backlog has been addressed these 14 appointments will not be renewed.

The Commissions' administrative staff are civil servants provided by OFMDFM. There are currently 18.

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. Planning Appeal Workload

(a) Planning Appeals

The intake of appeals to PAC is closely related to the output of decisions by the Department of the Environment (DOE). DOE statistics (to December 2010) indicate a continuing reduction in both the number of applications submitted and the number of decisions issued, although the percentage of applications refused has increased marginally. This trend is also reflected in the number of appeals submitted to PAC.

Year	2006/07	2007/08	2008/09	2009/10	2010/11
Appeals Received	2,765	1,516	515	515	435

The predicted intake of appeals in the next 3 years should take account of the following trends:-

- (i) current economic circumstances, particularly in the construction sector, will likely be maintained, resulting in fewer planning appeals, compared with the period 2006-2008;
- (ii) PAC has cleared the backlog of appeals awaiting determination and has reduced the time taken to determine appeals. As a consequence there is likely to be an increase in the number of appeals in default of a decision by DOE (Article 33 of the Planning Order). Development being pursued at appeal has increased in scale and complexity so more time is required to determine appeals. This will affect the allocation of work to Commissioners; and
- (iii) The Planning Bill completed by the Assembly in March 2011 has reduced the time period to appeal from 6 to 4 months. This is likely to increase the number of refusals appealed. The Bill has also introduced provision for applications for costs. This may not increase the number of appeals submitted but it will increase PAC workload in determining those appeals. However, as yet, there is no operational date for these provisions.

(b) Enforcement/Legal/Environmental appeals

Information from DOE on “live” enforcement action is limited but it has been stated that DOE will continue to be pro-active in addressing breaches of planning and pollution control. The Planning Bill proposes to reduce the time period within which DOE may take action against breaches of control involving material changes in use. This could lead to an increase in the number of appeals about Lawful Development Certificates (LDC). There are

also likely to be an increasing number of appeals in respect of 'environmental' appeal functions.

Year	2006/07	2007/08	2008/09	2009/10	2010/11
Appeals Received	46	115	118	160	126

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 by PAC.

(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 indicated.

Year	2011/12	2012/13	2013/14
Planning Appeals	550	550	600

2. **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.

3. **Referred Workload**

(a) **Development Plans**

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

- Belfast Metropolitan Area Plan, 4 Commissioners, Public Inquiry completed, 2 sections of the report delivered in January 2009 and March 2011, remaining sections to be delivered in mid-2011.
- Banbridge/Newry and Mourne Area Plan, 3 Commissioners, Public Examination completed, report to be delivered in 2011.
- Northern Area Plan, 3 Commissioners, examination of objections to be held in 2011/12.

The Review of Public Administration will transfer planning powers (including plan making powers) to local Councils. The Planning Bill provides for this but the provision is not yet operational. This transfer to local Councils is likely to increase development plan work for PAC as Councils appear anxious to publish local plans and local development strategies for their areas.

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

Year	2011/12	2012/13	2013/14
Commissioners on plan work	8	3	5

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

At the beginning of 2011/12 (April 2011) PAC is processing the following major planning applications:

- Retail proposal, Sprucefield;
- 2 retail proposals, Newtownards;
- Retail proposal, Castlereagh Road, Belfast;
- Office proposal, Londonderry;
- Belfast City Airport, runway extension; and
- 2 Retail developments, Lisburn.

DOE referred the NIE North/South Interconnector in April 2011 and has indicated that the following developments will be referred:

- Retail developments, Bunrana Road, Londonderry;
- Energy from waste power plant, Belfast; and
- Mixed use development, Belfast.

DOE provides PAC with limited information on major developments. In addition some were submitted to DOE a number of years ago. This has resulted in the withdrawal of applications, or requests from DOE that applicants submit further Environmental Information when PAC begins to process these applications. This has proved extremely wasteful of Commissioner and administrative resources. Accordingly PAC has discussed with DOE the necessity to avoid these delays as there is pressure to consider these major developments expeditiously given their economic significance.

Regulations setting out fees for the submission of planning applications were amended in March 2011 and now include a substantial standard fee for applications considered to be EIA development, as defined by the Planning (Environmental Impact Assessment Regulations (NI)). There is a right of hearing before PAC about determinations by DOE that applications are EIA development. The imposition of a substantial fee together with the cost of producing an Environmental Statement could result in an increase in the number of hearing requests under the EIA Regulations.

Accordingly, over the next 3 years, possible Commissioner involvement in referred work relating to major proposals is likely to be as follows.

Year	2011/12	2012/13	2013/14
Commissioners on Public Inquiry and Hearing work	3	4	4

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. Over the next 3 years, the Commissions will rely primarily on its full-time Commissioners to address its workload and they will be allocated to ensure the appropriate balance between appeal and referred caseload.

FINANCE

The Budget 2011- 2015 reflects the difficult fiscal environment and details the consequent impacts throughout the public sector. The Commissions are funded on an annual basis through OFMDFM and, along with the Department and its arms length bodies, are required to deliver cumulative 3% per annum efficiency savings during the budget period.

OFMDFM have indicated a baseline budget allocation of £2,339,000 for the 2011/12 financial year. The Commissions may also retain receipts for appeal fees and deemed planning application fees. Based on experience of previous years, this could amount to £100,000, which, if realised would result in a total income of £2,439,000 for the Commissions for 2011/12.

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.

* Excluding appeals delayed to facilitate the appellant.

PUBLIC EXAMINATIONS/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.