



**Wac**

**Water Appeals  
Commission**

**THE PLANNING AND WATER  
APPEALS COMMISSIONS**

**Business Plan 2009/10  
Corporate Plan 2009/10 - 2011/12**

# **C O N T E N T S**

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**MAIRE CAMPBELL  
Chief Commissioner**

**April 2009**

# 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 18. 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 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. Appeal Workload

#### (a) Planning Appeals

The intake of planning appeals increased year on year to March 2007, in response to the expected more restrictive planning policy for the rural areas and more restrictive urban limits in draft development plans. The buoyant land and property market is likely also to have been a factor. In 2007/08 and 2008/09 there was a sharp drop in the intake of appeals.

Year	2004/05	2005/06	2006/07	2007/08	2008/09
<b>Appeals Received</b>	762	1,265	2,765	1,516	515

Rural planning policy (Planning Policy Statement 21) is unlikely to be finalised until early 2010. In 2008/09 Planning Service delayed issuing decisions on a number (around 2,300) of applications not in accordance with the previous draft Policy but has indicated that it expects to begin the issue of Refusal Notices in mid 2009. Notwithstanding the current economic situation, in view of the uncertainty about rural planning policy, a significant number of these are likely to be appealed.

Year	2004-05	2005-06	2006-07	2007-08	2008-09
<b>Appeals Decided</b>	519	611	973	1,065	1,411
<b>Appeals awaiting determination</b>	408	973	2,615	2,834	1,651

As a result of statutory reform and increased resources, PAC has increased the number of appeals decided year on year. PAC deals with most appeals in the chronological order in which they were submitted and because it is currently dealing with appeals submitted in 2007, it is failing to meet its timeliness targets for determining appeals. During 2008/09, the output of appeal decisions exceeded the annual intake of appeals. The historic backlog is being reduced and the Commission anticipates that on current trends, in approximately 2 years, it should be able to determine the majority of appeals within target times. This is likely to lead to an increase in appeals in default of a decision by Planning Service (Article 33), as demonstrated by previous experience.

<b>Year</b>	<b>2004/05</b>	<b>2005/06</b>	<b>2006/07</b>	<b>2007/08</b>	<b>2008/09</b>
<b>Article 33 as % of planning appeals received</b>	33%	20%	15%	2%	5%

**(b) Enforcement/Legal/Environmental Appeals**

In recent years DOE has been proactive in addressing breaches of planning and pollution control, resulting in an increase in appeals in this area.

<b>Year</b>	<b>2005/06</b>	<b>2006/07</b>	<b>2007/08</b>	<b>2008/09</b>
<b>Enforcement/LDCs</b>	38	46	115	118

The requirement to comply with environmental regulations (Industrial Pollution and Waste and Contaminated Land Controls) has also 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. While predicted numbers of these appeals are low, as they raise complex legal and technical issues, they are time consuming to determine and may require the appointment of Assessors to assist Commissioners.

**(c) Future Appeal Workload**

The above factors suggest that, notwithstanding the economic downturn and the problems of the property market, 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).

<b>Year</b>	<b>2009/10</b>	<b>2010/11</b>	<b>2011/12</b>
<b>Predicted intake of planning appeals</b>	1,300	900	1,000
<b>Approximate appeal receipts at current fee rates</b>	£163K	£113K	£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 mid 2010.
- \* Magherafelt Area Plan, 3 Commissioners, Public Examination ongoing.
- \* Banbridge/Newry and Mourne Area Plan, 3 Commissioners, Public Examination to commence in August 2009.

A further draft Plan, Northern Area Plan, may be referred to PAC if a Judicial Review application is resolved. Work on this is likely to involve 3 Commissioners.

Accordingly, over the next 3 years, Commissioner involvement in referred area plan work is as indicated.

Year	2009/10	2010/11	2011/12
<b>Commissioners on plan work</b>	10	11	9

### (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. Planning Service has indicated that 3+ further proposals could be referred in 2009/10. Given the unprecedented number of such referrals and the Commissions' heavy workload all of this major casework cannot be prioritised. The Planning Appeals Commission has stated that only one major proposal or scheme could be considered at any time. Accordingly, Planning Service, at the Commissions' request, has set out the order in which it wishes to have the proposals considered. The indicated order of priority for the referred schemes is:-

- Causeway Visitors Centre.
- Banbridge Retail proposal.
- Sprucefield Retail proposal.
- Newtownards Retail proposals.
- Strabane Retail proposal.
- Londonderry Retail proposal.

The Causeway proposal was being considered by 2 Commissioners (including 1 Panel Commissioner) but is now subject to a legal challenge and is therefore adjourned. The Banbridge proposal will be considered by 2 Commissioners in Summer 2009, followed by the remaining proposals in the order indicated by Planning Service. Full-time Commissioner resources allocated to address these proposals over the next 3 years is therefore likely to be as set out below.

<b>Year</b>	<b>2009/10</b>	<b>2010/11</b>	<b>2011/12</b>
<b>Commissioners allocated to major proposals.</b>	2	2	2

Given the economic significance of these proposals, PAC expects pressure to allocate additional Commissioner resources to consider them expeditiously. Accordingly PAC will investigate and discuss with OFM/DFM the use of some Panel Commissioners and/or short fixed term appointments to provide additional Commissioner resources.

### 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. **Workload Priorities/Allocation of Commissioner Resources**

The Commission has set out its procedure for prioritising casework. The Commission must ensure that resources are allocated to maintain an appropriate balance between appeal and referred work. Over the next 3 years the Commissions will ensure that adequate Commissioner resources (full time and Panel) will be retained to enable the delivery of up to 1,500 appeal decisions per annum. The use of written representation procedures (without oral proceedings) 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 oral proceedings, including legal and environmental appeals.

Teams of Commissioners (mainly full time with Panel Commissioners as appropriate) will be allocated to referred work - development plan and major proposals and schemes. This will ensure the efficient and effective conduct of proceedings and the timely production of reports. This method of working has also proved to have advantages for addressing the complex technical and procedural issues arising in this caseload and for broadening the experience of Commissioners.

## FINANCE

The Commissions are funded on an annual basis through OFMDFM programmed expenditure. In November 2007, the following budget was indicated for 2009/10 and 2010/11.

<b>Year</b>	<b>2009/10</b>	<b>2010/11</b>
<b>Proposed baseline</b>	£2,378K	£2,396K
<b>Proposed retained receipts</b>	£ 376K	£ 376K
<b>Proposed Total</b>	£2,754K	£2,772K
<b>Receipts based on predicted appeals</b>	£ 144K	£ 113K
<b>Shortfall</b>	£ 232K	£ 263K

The Commissions have requested assistance from the Department to redress the shortfall in funding for 2009/10, and this request is currently being progressed. The potential shortfall relating to 2010/11 budget will be considered at the start of that financial year. At present no budgets have been set for 2011/12 onwards as these will be determined as part of a Comprehensive Spending Review.

## 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.

### **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.