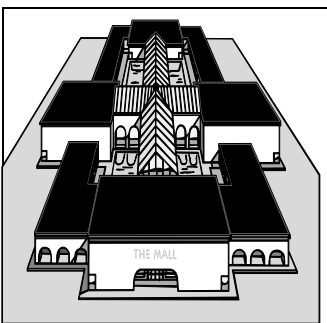




# Planning Appeals Commission



## Procedures for Enforcement Notice, Listed Building Enforcement Notice and Submission Notice Appeals



*pac*  
Planning Appeals  
Commission

## Contents

	Paragraphs
Introduction	1-2
The Planning Appeals Commission	3-6
PAC Decision Making	7
Enforcement Notices	8-9
Listed Building Enforcement Notices	10
Submission Notices	11
The DoE's Policy on Enforcement and Submission Notices	12
Planning Contravention Notices, Breach of Condition Notices and Stop Notices	13
The Right of Appeal	14-15
Effect of an Appeal	16
Whether to Appeal	17-18
How to Appeal	19-20
Time Limits for Appeals	21
Where to Send the Appeal	22
Appeal Fee	23
Deemed Planning Applications	24
Fees for Deemed Planning Applications	25-26
Exemptions from Deemed Planning Application Fees	27
Concessionary Fees for Deemed Planning Applications	28
Can an Appeal be Withdrawn?	29
Can objectors or supporters take part in an appeal?	30-32
Stating the Facts	33
Grounds of Appeal against an Enforcement Notice	34-45
Grounds of Appeal against a Listed Building Enforcement Notice	46
Grounds of Appeal against a Submission Notice	47
Other Grounds of Appeal	48-49
Environmental Impact Assessment	50-53
District Council Notification	54
The Choice of Appeal Procedure	55-60
Stages in Each Type of Procedure	60-63
The Arrangements before a Hearing or an Accompanied Site Visit	64-65
Statements of Case	66-68

Preparing for the Appeal	69-70
What Happens at an Informal Hearing?	71-72
What Happens at a Formal Hearing?	73-78
What Happens at Site Visits?	79-80
Evidence Submitted after the Hearing or Site Visit	81
Powers of the PAC	82
The PAC Decision	83-85
Refund of the Deemed Application Fee	86-87
Complaints	88-92
Complaints to the Parliamentary Ombudsman for Northern Ireland	93
Challenging the Commission in the Courts	94-95

Appendix I – Data Protection and Freedom of Information in the Planning and Water  
Appeals Commission

Appendix II – Procedural Charts

Appendix III – Main Planning Legislation

Appendix IV – Advice on preparation of Statements of Case

## Introduction

- [1] Although this booklet is not an exact statement of the law relating to appeals, the information it contains will assist those making an appeal as either appellants or agents.

These procedures have been drawn up under Article 111(5) of the Planning (NI) Order 1991. They are based on the principles of openness, fairness and impartiality which the Commission practices. As there are no statutory rules for the conduct of appeals 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 with an appeal 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](mailto:niplanaid@rtpi.org.uk).

## The Planning Appeals Commission

- [3] The PAC exists under the Planning (Northern Ireland) Order 1991. It is an independent body which decides appeals made in respect of various decisions and notices issued mainly by the Department of the Environment (DoE). The PAC is not part of the DoE or any other Assembly 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 and law. They make decisions on appeals on behalf of the PAC and recommendations to the PAC on the outcome of appeals after studying written submissions from the parties involved and after conducting hearings and site visits, some accompanied, into the case.
- [5] The PAC decides appeals on the evidence presented to it in each case and, based on that evidence, aims to make the best possible appeal decisions in an efficient manner through the most effective procedures appropriate to each appeal. To do this it requires the co-operation of all involved. It is also committed to ensuring that the appeals 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 appeals or offer advice or guidance on the possible outcome of any case.

## PAC Decision Making

- [7] The PAC decision on an appeal may be made by a single Commissioner (called an individual decision) or by a panel of not fewer than four Commissioners (called a collective decision). Based on criteria published on the PAC website [www.pacni.gov.uk](http://www.pacni.gov.uk) the Chief Commissioner decides if the decision in the appeal should be an individual or a collective decision. A single Commissioner appeal may also be recovered by the Chief Commissioner for a collective decision at any point before it is issued by the PAC. The DoE and the appellant will be informed of the type of decision to be made.

## Enforcement Notices

- [8] The DoE may issue an enforcement notice when it appears that there has been a breach of planning control. A breach of planning control occurs when development requiring planning permission is carried out without permission or when conditions or limitations imposed by a planning permission have not been complied with. The provisions relating to enforcement notices are set out in Articles 67A to 72 of the 1991 Planning Order.
- [9] An enforcement notice must:-
- be served on the owner and occupier of the land and/or buildings in question and on other persons whose property rights in the land would be affected;
  - specify the nature of the alleged breach of planning control;
  - specify the steps required to put right the breach or to alleviate any injury to amenity;
  - state the periods within which the specified steps are to be taken.

## Listed Building Enforcement Notices

- [10] It is an offence to carry out works to a listed building which would require listed building consent or to fail to comply with any condition attached to a listed building consent. Where the DoE considers that unauthorised works have been carried out to a listed building, it may issue a listed building enforcement notice. The provisions relating to such notices are set out in Articles 77 to 79 of the 1991 Planning Order. Unless otherwise stated, the procedures described in this booklet relating to enforcement notice appeals also relate to listed building enforcement notice appeals.

## Submission Notices

- [11] Where the DoE considers that development has been carried out without planning permission, it may issue a notice requiring a planning application to be submitted for the development within 28 days. Such notices are known as submission notices. A submission notice must specify the nature of the development to which it relates and must be served on the owner and occupier of the land in question. Articles 23 and 24 of the 1991 Planning Order deal with submission notices.

## The DoE's Policy on Enforcement and Submission Notices

- [12] The DoE's policy on the circumstances in which enforcement notices and submission notices are issued is set out in its publication "Planning Policy Statement 9: The Enforcement of Planning Control". This document is available from any of the DoE's Divisional Planning Offices.

## Planning Contravention Notices, Breach of Condition Notices, Stop Notices

- [13] The DoE may also serve a **Planning Contravention Notice**, seeking information about activities on land, a **Breach of Condition Notice**, seeking compliance with a condition of a planning permission or a **Stop Notice**, requiring that an activity on land be stopped immediately.

There is **no Appeal** to the PAC against any of these notices.

## The Right of Appeal

- [14] Anyone with an interest in the land specified in an enforcement notice or listed building enforcement notice may appeal, whether or not they were served with a copy of the notice. "Interest" means a legal or equitable interest, such as personal ownership or the grant of a tenancy or lease. A mortgagee or other lender also has an interest in the land as security for the loan. Anyone occupying the land with the owner's written consent also has the right to appeal, whether or not they were served with a copy of the notice.
- [15] Only those persons on whom a copy of a submission notice was served may appeal against it.

## Effect of an Appeal

- [16] Where an appeal is made against an enforcement notice, a listed building enforcement notice or a submission notice, the notice does not take effect until the appeal is decided or withdrawn. However, where an enforcement notice has been served, the DoE may also serve a stop notice prohibiting you from continuing a use or from carrying on building while the effect of the enforcement notice is suspended.

## Whether to Appeal

- [17] Before deciding to appeal, please give careful consideration to the contents of the notice issued by the DoE. If you are unclear about anything, you should seek advice at once. You may find it helpful to consult a solicitor or other professional adviser. The Royal Town Planning Institute provides a planning aid service for people who cannot afford professional advice. You can write to Planning Aid Northern Ireland, PO Box 97, Belfast BT4 2WL or telephone 028 9076 0464. Alternatively, you may prefer to talk the matter over with your local Citizens' Advice Bureau.
- [18] Sometimes more than one person may have a legal interest in the land to which an enforcement notice relates and their different interests may coincide or conflict with each other. It is up to each person to decide how his or her own interest will best be served. If separate parties with a legal interest in the land have a common purpose in pursuing an appeal, they may decide that the appeal should be made by one of the parties. However, it should be noted that if the party who appeals subsequently withdraws the appeal, the enforcement notice will become effective as far as all the parties are concerned.

If you think there is a good reason to appeal against the notice, you should do so **without delay** and make sure your appeal is made correctly as there are strict time limits.

## How to Appeal

- [19] All appeals against enforcement notices, listed building enforcement notices and submission notices must be made in writing. The best way to appeal is to complete the relevant appeal form, which is available on the PAC's web site **[www.pacni.gov.uk](http://www.pacni.gov.uk)** or from the PAC's administrative staff. The Divisional Planning Office should have sent you a copy of the appeal form and of this booklet when it served you with the notice.
- [20] If you have not got and cannot quickly obtain an appeal form, you should write to the PAC stating that you wish to appeal against the notice or notices if there are more than one. You should give your full name and address, identify the precise location of the land in question and the Divisional Planning Office involved. It is advisable to enclose a copy of all the notices you are appealing against. You may send your letter of appeal by fax or e-mail.

## Time Limits for Appeals

An enforcement notice must be appealed before the date on which it takes effect. A submission notice must be appealed before the end of the period allowed for compliance. The PAC has no power to extend the date for receiving these appeals.

- [21] The appeal must be **received** in time by the PAC. You should not wait until the last few days. If you wait and something goes wrong, it may be too late to put matters right. If you post your appeal, you are responsible for ensuring that the type or class of postal service used is such that the Post Office would normally be expected to be able to deliver it in time. If the last day for appealing is a Sunday or a Public Holiday, the appeal must be posted in time to arrive by the following day which is not a Sunday or a Public Holiday. You must be able to prove this, otherwise your appeal will be regarded as out of time. You should not leave making your appeal to the last minute.

If you think your appeal cannot be delivered in time by using the postal service, you should consider using one of the rapid postal or transit delivery services, or deliver your appeal by hand to the PAC's offices. These offices are open to the public from Monday to Friday between 9 am and 5 pm. If you deliver your appeal personally, you will receive a dated receipt for the appeal documents. If you do decide to appeal, do not delay, as time limits must be applied strictly.

## Where to Send the Appeal

- [22] To appeal you must give notice to the PAC and it is preferable to complete the correct forms. These may be downloaded from the PAC's website [www.pacni.gov.uk](http://www.pacni.gov.uk) or may be obtained from:-

**The Chief Administrative Officer  
Planning Appeals Commission  
Park House  
87-91 Great Victoria Street,  
Belfast,  
BT2 7AG**

**Tel: 028 9024 4710 Fax: 028 9031 2536  
E-mail: [info@pacni.gov.uk](mailto:info@pacni.gov.uk)**

**or the local Divisional Planning Office of the DoE**

## Appeal Fee

- [23] Each appeal against an enforcement notice, a listed building enforcement notice or a submission notice must be accompanied by a fee. (This is called the appeal fee.) The amount is specified in regulations made by the DoE and changes periodically. At present it is **£126**. Cheques should be made payable to "The Planning Appeals Commission". If your appeal is not accompanied by the appeal fee you will be asked to pay this within 14 days. If the appeal fee is not paid before the date set for submitting your Statement of Case (see Paragraph 68 below), your appeal will be dismissed because of your failure to pay.

## Deemed Planning Applications

- [24] If an appeal is made against an enforcement notice, the appellant is deemed to have made an application for planning permission for the development in question. It should be noted that this application relates solely to the development described as a breach of planning control in the notice and cannot be extended or amended to include any other development. **There is no deemed planning application in the case of an appeal against a listed building enforcement notice or a submission notice.**

## Fees for Deemed Planning Applications

- [25] In most circumstances a separate fee is payable to the PAC in respect of the deemed planning application. This is called the deemed application fee. The DoE will advise you of the deemed application fee when serving you with a copy of the enforcement notice. You should pay the fee for the deemed planning application along with your appeal fee when making your appeal.
- [26] When several people appeal against the same enforcement notice, each will be required to pay the appropriate fee for the deemed planning application. Only one person (paying one fee) need appeal against a particular notice to keep that appeal in being. But, if only one appeal is made, and is subsequently withdrawn, the enforcement notice takes effect immediately.

## Exemptions from Deemed Planning Application Fees

- [27] No deemed application fee is payable when the development alleged in the enforcement notice consists solely of:-
- (i) the carrying out of operations for the alteration or extension of an existing dwelling, or operations within the curtilage of a dwelling, for the purpose **in either case** of providing means of access or special facilities for a disabled person living or proposing to live there; or
  - (ii) operations carried out for the purpose of providing access for disabled persons to or within a building or premises to which the public are admitted; or
  - (iii) changes of use that would not have required planning permission but for a condition attached to a grant of planning permission; or
  - (iv) development which is the same as that applied for in a pending, undetermined planning application (or related planning appeal) for which the appropriate fee was paid before the enforcement notice was issued.

## Concessionary Fees for Deemed Planning Applications

- [28] Reduced deemed application fees are payable where the development would not normally require express planning permission because it enjoys permitted development rights under the Planning (General Development) Order, but those rights have been withdrawn by a direction issued by the DoE or a condition attached to a planning permission.

## Can an Appeal be Withdrawn?

- [29] An appeal can be withdrawn by the appellant at any time before the appeal decision is issued. If you wish to withdraw your appeal, you should contact the PAC at once by telephone and must then confirm the withdrawal in writing or by fax, quoting the appeal reference number. This is especially important where a hearing has been arranged. When an appeal is withdrawn the appeal fee is not returnable. Withdrawing an appeal causes the PAC administrative problems and has implications for the re-scheduling of Commissioners' workloads. Appellants should therefore consider carefully whether there are grounds for appealing. Please note that if you withdraw your appeal, the notice becomes effective immediately.

## Can Objectors or Supporters take part in an Appeal?

- [30] If you wrote to the PAC about the appeal within **14 days** of it being advertised in the local press by the PAC you will be invited take part in the appeal and your letter of objection/support will be copied to the appellant. When you receive this invitation you may decide to rely on your initial letter and take no further part in the appeal process or you may wish to submit a Statement of Case and take part in any hearing or accompanied site visit that is arranged.

As the substance of representations is of more significance than the volume, objectors and supporters sharing a common cause are encouraged and expected to join together to present a single Statement of Case and to appoint one or two people to represent and speak for them at a hearing or site visit. They may obtain names and addresses of other objectors/supporters from the PAC.

- [31] Objectors and supporters who wish to take part in the appeal process will be sent a copy of the appellant's and the DoE's Statements of Case and the appellant and DoE will be sent a copy of their Statements of Case.
- [32] Objectors or supporters making representations outside the specified 14 day period will be too late to participate in the exchange of Statements of Case before the hearing or site visit and will be expected to join together with other participating third parties. However, in exceptional circumstances and provided it is practicable in terms of the timetable, the PAC may permit third parties responding outside the 14

day period to participate in the exchange of Statements. In any event objectors or supporters who are too late to exchange Statements may attend the hearing and participate as permitted by the Commissioner.

## Stating the Facts

- [33] When you appeal against an enforcement notice, a listed building enforcement notice or a submission notice, you must indicate the grounds on which you are appealing and state the facts in support of each chosen ground of appeal. The appeal forms have a series of boxes for you to tick and space to enable you to state the supporting facts. **It is clearly inappropriate to tick all the boxes.** You should therefore consider carefully which grounds of appeal are appropriate in your case. Failure to specify any grounds of appeal could lead to your appeal being dismissed. Only a brief summary of the facts need be given at this stage since you will have the opportunity to set out your evidence in full later on in your Statement of Case.

## Grounds of Appeal Against an Enforcement Notice

- [34] An appeal against an enforcement notice may be made on any of the seven grounds in Article 69(3) of the Planning Order. What follows is an explanation of the grounds. You will have to consider which (if any) may be appropriate for your own case.

**Ground (a): that in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted, or as the case may be, the condition or limitation concerned ought to be discharged.**

- [35] **Ground (a)**, like the deemed planning application, is concerned with the planning merits of the development to which the notice relates. Before issuing a notice, the DoE must have regard to the provisions of the development plan and to any other material considerations. You may find it useful, before deciding to appeal under this ground, to approach your local Divisional Planning Office to find out their planning objections to the alleged breach of planning control and information on the relevant policy and guidance documents.
- [36] In your statement of facts, you should give a brief summary of the reasons why, in your opinion, planning permission ought to be granted for the development in question or, if the notice relates to a planning condition, why the condition in question should not continue in force. You can expand on this later in your Statement of Case.
- [37] If you appeal under Ground (a), you must pay the deemed planning application fee otherwise this ground of appeal will lapse. If this ground of appeal is successful, the notice will be quashed.

**Ground (b): that those matters have not occurred.**

[38] If you can demonstrate that what is alleged in the notice as a breach of planning control has not, in fact, taken place, then you should be able to appeal under Ground (b). This covers situations where, for example, the notice alleges that a building has been erected and as a matter of fact there is no building on the land. Another example is where the change of use of a property to, say, an office use is alleged and the appellant is able to show that there was no office use of the premises at the time when the notice was issued. Your statement of facts should state, therefore, what was occurring at the site or premises at the time the notice was issued and how this differs from the alleged breach of planning control. You may expand on this later in your Statement of Case and attach supporting evidence.

**Ground (c): that those matters (if they occurred) do not constitute a breach of planning control**

[39] Depending on what the enforcement notice alleges, you may wish to argue that there has not been a breach of planning control because:-

- (i) the development in question existed before the introduction of planning control under the provisions of the Planning (Interim Development) Act (Northern Ireland) 1944 and has continued without significant change; or
- (ii) the building, mining, engineering or other operations mentioned in the notice do not amount to development as defined in Article 11 of the 1991 Planning Order; or
- (iii) the change made in the use of the land or buildings was not a material change of use; or
- (iv) any change made in the use of the land was within the same use class in the Planning (Use Classes) Order which was effective at the time the change took place.
- (v) the planning conditions to which the notice relates have been complied with; or
- (vi) what has been done or built was within the terms of an extant planning permission; or
- (vii) the change of use of the land, or the erection of buildings on it, was development permitted by the Planning (General Development) Order which was effective when the development took place (or, in the case of operations, when they commenced).

[40] Whatever the allegation, you should explain precisely in your statement of facts why you consider there has been no breach of planning control. You should state briefly, with relevant dates, when various building or other operations took place on the land in question, what uses were carried on at the property and what permissions have been granted in respect of the land. If the notice is concerned with a

planning condition, state what steps have been taken to comply with the condition. You may set this out more fully in your Statement of Case and attach any supporting evidence. The examples given in Paragraph 34 are not a complete list. It may be useful, if you wish to pursue an appeal on Ground (c), to seek professional advice.

**Ground (d): that, at the date when the notice was served, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters.**

[41] If you can show that the alleged breach of planning control occurred outside the specified time limits you should be able to appeal on Ground (d). These circumstances are:-

- (i) the carrying out, without planning permission, of building, engineering, mining or other operations becomes immune from enforcement action **four years** after the operations are substantially completed.
- (ii) the change of use of a building, or part of a building, to use as a single dwelling house, or the failure to comply with a condition of a planning permission prohibiting use of a building as a single dwelling house, becomes immune from enforcement action once the unauthorised use has continued for **four years** without enforcement action being taken; or
- (iii) any other breach of planning control, such as making a change of use of any land, or failure to comply with any condition or limitation subject to which planning permission was granted becomes immune from enforcement action **ten years** after the date on which the breach occurred.

[42] It is not enough to say in your statement of facts that "The building was finished more than four years ago" or "I have been using this land for more than ten years". Instead you should give precise dates as to when aspects of the work were carried out and when the building was substantially completed or precise details of when you changed the use and how you have used the land over the ten year period. You may expand on this later in your Statement of Case and attach supporting evidence.

**Ground (e): that copies of the enforcement notice were not served as required by Article 68**

[43] To appeal successfully under Ground (e) you will have to demonstrate that there has been substantial prejudice to a party or parties on whom you consider a copy of the notice should have been served and who have not been so served. In your statement of facts you should give the name and address of the persons who you think ought to have been served with a copy of the notice and the nature of their interest in the land (for example, joint owner, sub-tenant) and why you think they have been substantially prejudiced. Before making an appeal on this ground, you should check carefully that the person concerned has not been served with a copy of the notice. Please note that it is not normally considered necessary to serve a separate copy of a notice on members of the same family living together.

**Ground (f): that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy the breach of planning control or to remedy the injury to amenity caused by the breach.**

- [44] If the steps required by the enforcement notice to be taken either require you to carry out work unrelated to the breach of planning control or prevent you from carrying on an otherwise lawful use of the land, Ground (f) may apply. In your statement of facts, explain why you think that any of the steps required by the enforcement notice is excessive. You may expand on this later in your Statement of Case and attach supporting evidence.

**Ground (g): that the period specified in the notice as the period within which any step is to be taken falls short of what should reasonably be allowed**

- [45] If you consider that insufficient time is given for carrying out any of the steps required by the notice, then you may wish to appeal under Ground (g). In your statement of facts, you should explain briefly why you think the time is too short having regard to such matters as the extent of work involved in complying with the notice and the desirability of finding alternative premises. You should also state what period you consider would be adequate, and why. You may expand on this later in your Statement of Case and attach supporting evidence.

## Grounds of Appeal Against a Listed Building Enforcement Notice

- [46] An appeal against a listed building enforcement notice may be made on any one of the 11 grounds stated in Article 78(1) of the Planning Order. What follows is an explanation of the grounds and you will have to decide which (if any) may be appropriate to your case:-
- (a) that the matters alleged to constitute a contravention of Article 44 have not occurred;
  - (b) that these matters (if they occurred) do not constitute such a contravention;
  - (c) that the contravention alleged in the notice occurred before 9<sup>th</sup> December 1978;
  - (d) that the works were the minimum immediately required to effect urgently necessary measures in the interests of safety or health or for the preservation of the building and that it was not practicable to carry out works of repair, or works for affording temporary support or shelter;
  - (e) that listed building consent ought to be granted for the works, or that any relevant condition of such consent should be discharged or a different condition substituted;
  - (f) that copies of the notice were not served as required by Article 68(5);
  - (g) that the period specified in the notice as the period within which any step is to be taken falls short of what should reasonably be allowed; and

(h)-(k) that (depending upon the circumstances of the case) the requirements of the notice exceed what is necessary.

## Grounds of Appeal Against a Submission Notice

- [47] Article 24(2) of the Planning Order specifies three grounds of appeal against a submission notice. These are:
- (i) that the matters alleged in the notice do not constitute development;
  - (ii) that the development alleged in the notice has not taken place; and
  - (iii) that the period of four years referred to in Article 23(2) had elapsed at the date when the notice was issued.

## Other Grounds of Appeal

- [48] You may wish to challenge the validity of an enforcement notice, a listed building enforcement notice or a submission notice on the ground that there is some fundamental defect in its drafting or authorisation. You may raise these issues separately from your chosen grounds of appeal against the notice. You should inform the PAC, when you submit the appeal, of the reason why you consider that the notice is wrong, supporting your submission with relevant facts.
- [49] When the validity of a notice is questioned, the PAC will usually ask the DoE for its comments on the points raised by the appellant. If the notice is found to be invalid and incapable of correction, or a nullity, the appeal will not proceed any further and the notice will be quashed (although the DoE may subsequently issue a further notice in respect of the same matter). If the PAC considers that the evidence of invalidity is inconclusive, or that more information is needed to support it, the appeal will usually proceed and the issue will be explored in greater detail as part of the appeal process.

## Environmental Impact Assessment

- [50] The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999 prohibit the granting of planning permission for certain kinds of developments which are likely to have significant effects on the environment, unless an environmental statement has been submitted and taken into consideration. **Such development is known as "EIA development"**. Where the DoE concludes that the development to which an enforcement notice relates involves EIA development, it must serve with the enforcement notice a second notice stating why it has reached that conclusion and requiring anyone who appeals against the enforcement notice to submit an environmental statement to the PAC.

- [51] If a person who is appealing against an enforcement notice does not agree that the development in question is EIA development, he or she may within **four weeks** of the service of the enforcement notice ask for a hearing before the PAC for the purposes of considering that issue. Following such a hearing, the power to confirm or withdraw the determination that an environmental statement is needed rests with the DoE.
- [52] An environmental statement must be submitted to the PAC within six months of the DoE determining, or following a hearing confirming, that it is required. The PAC has power to extend the period but will do so only if it is satisfied, having considered a written request from the appellant before the expiry of the six month period, that the circumstances warrant doing so.

If an environmental statement is not submitted on time, the deemed planning application and any appeal on Ground (a) will lapse and the PAC will not consider whether planning permission ought to be granted.

- [53] On receipt of an environmental statement, the PAC will send copies of it to the DoE, the district council for the area and any other authorities likely to be concerned by the development as a result of their specific environmental responsibilities. The PAC may seek further information from the appellant if it considers it necessary. The PAC will publicise the receipt of the environmental statement in at least one newspaper circulating in the local area and allow four weeks for any representations to be made.

## District Council Notification

- [54] When it receives any appeal against an enforcement notice or a listed building enforcement notice, the PAC is required by Article 69(5) of the Planning Order to notify the district council in whose district the appeal site lies. In determining the appeal it must take into account any representations received from the council. These requirements do not apply to submission notice appeals.

## The Choice of Appeal Procedure

- [55] The time and cost involved in pursuing an appeal will depend on the procedure to be followed, the complexity of the appeal and the level of representation which the parties wish to engage in the conduct of the appeal.
- [56] There are two types of appeal procedure:

**Written Representations – two options**

1. Written representations; or
2. Written representations with an accompanied site visit

**Hearing – two options**

1. Informal hearing; or
2. Formal hearing

[57] At the outset both the DoE and the appellant are asked by the PAC which type of appeal procedure they wish to use. The PAC encourages appeals to be dealt with by the WR procedure and if the appellant and DoE select that, then that is generally facilitated, although the PAC may decide that a hearing is required. If either the appellant or the DoE wants an accompanied site visit with a WR appeal then that is facilitated by the PAC. If either of them requests a hearing then by law they have a right to a hearing. Where a hearing is chosen by the appellant or the DoE the PAC encourages them to select an informal hearing when the issues are straightforward as this represents a more effective and efficient method of gathering information in a less intimidating atmosphere. The PAC then chooses the type of hearing which it considers most appropriate, taking into account what the appellant and the DoE have indicated as their preference, the scale and nature of the proposal, the complexity of the legal and technical issues and the amount of public response. The PAC expects the DoE and the appellant, in the appeal form, to specifically identify the complex issues that justify a request for a formal hearing. The critical test will be the need for the issues to be tested by formal questioning from opposing parties. Objectors and supporters must comply with whatever procedure is decided upon by the PAC

Formal hearings will normally be arranged for submission notice appeals and for enforcement notice and listed building enforcement notice appeals involving complex legal issues and significant factual disputes.

[58] Informal hearings are as user friendly as possible and avoid the intimidatory atmosphere which some appellants and third parties feel is present in the more adversarial formal hearings. The PAC recognises that they must comply with the principles of openness, fairness and impartiality to which it is committed. Informal hearings must not, therefore, be so relaxed that lack of structure undermines the essential requirement that all critical issues are examined adequately.

The Commission or the appointed Commissioner, whether requested or not to do so by the parties, may abandon an informal hearing at any stage, having regard to the criteria set out above if it becomes apparent that it would be more appropriate to proceed by way of a formal hearing. In these circumstances alternative arrangements will be made for a formal hearing and all parties will be advised of this.

[59] In choosing the procedure which is most appropriate to the case, an appellant and the DoE should note:

- Submission of advance written evidence (Statements of Case) within specified time limits is required for all types of procedure.

- The WR procedure is generally quicker and less costly than an appeal by way of hearing.
- At any stage in the WR process the PAC or the Commissioner may seek further information by requesting additional written submissions from the parties or by arranging a hearing to clarify issues which can not be properly covered by written submissions.
- Informal hearings have a less intimidating atmosphere.
- Formal hearings are only necessary for complex cases.

**No matter which type of procedure is used, the PAC gives the case the same careful consideration.**

## Stages in Each Type of Procedure

### [60] **Written Representation Procedure without Accompanied Site Visit**

**Stage 1** – Submission of Statements of Case by all parties within four weeks of the request by the PAC.

**Stage 2** – All submitted documents are exchanged as appropriate through the PAC and two weeks allowed for the submission of any comments. These are copied to participating parties for information only.

**Stage 3** – The case is considered by the Commissioner, who carries out a site visit and issues a decision on the appeal or reports to the PAC, normally within two weeks.

**Stage 4** – (If applicable) the PAC considers the case and normally issues its decision no later than two weeks from the presentation of the report to the PAC meeting.

### [61] **Written Representation Procedure with Accompanied Site Visit**

**Stage 1** – All parties are notified of the date, time and place for the site visit and are required to submit their Statement of Case within four weeks.

**Stage 2** – All submitted documents are exchanged as appropriate through the PAC and two weeks allowed for the submission of any comments. These are copied to participating parties for information only.

**Stage 3** – The case is considered by the Commissioner, who carries out the accompanied site visit and issues a decision on the appeal or reports to the PAC, normally within two weeks.

**Stage 4** – (If applicable) the PAC considers the case and normally issues its decision no later than two weeks from the presentation of the report to the PAC meeting.

[62] **Informal Hearing Procedure**

**Stage 1** – The PAC normally gives parties eight weeks notice of the hearing date and sets out arrangements for submission and exchange of Statements of Case between relevant parties.

**Stage 2** – Statements of Case are submitted by all participating parties at least two weeks prior to the hearing and circulated by the PAC to be read by all parties in preparation for the hearing.

**Stage 3** – The hearing is conducted by the Commissioner.

**Stage 4** – The case is considered by the Commissioner who visits the site with or without the attendance of the parties and issues a decision on the appeal or reports to the PAC normally within four weeks of the hearing.

**Stage 5** – [If applicable] the PAC considers the case and normally issues its decision no later than two weeks from the presentation of the report to the PAC meeting.

[63] **Formal Hearing Procedure**

**Stage 1** – The PAC normally gives the parties twelve weeks notice of the hearing date and sets out arrangements for submission and exchange of Statements of Case.

**Stage 2** – Statements of Case are submitted by all participating parties and these are exchanged by the PAC and two weeks allowed for the submission of rebuttals. These are copied to participating parties. All documents should be read prior to the hearing. If there are a large number of objections there may be meetings before the hearing to exchange these documents.

**Stage 3** – The hearing is conducted by the Commissioner.

**Stage 4** – The case is considered by the Commissioner who visits the site with or without the attendance of the parties and issues a decision on the appeal or reports to the PAC normally within five weeks of the hearing.

**Stage 5** – [If applicable] the PAC considers the case and normally issues its decision no later than two weeks from the presentation of the report to the PAC meeting.

The Chief Commissioner appoints a Commissioner (called the appointed Commissioner) to deal with appeals on the basis of whatever procedure is most appropriate.

## The Arrangements before a Hearing or an Accompanied Site Visit

### [64] For a Hearing:

- When the PAC writes to the appellant setting out the date for the submission of the Statement of Case, the letter will also indicate a date and venue for the hearing. If the date is acceptable there is no need to reply and the allocated date is confirmed without further notice and cannot be subsequently changed. If the date is unacceptable the appellant must notify the Commission, giving alternative dates, and the PAC will then choose one of these as the accepted date of the hearing. Before selecting these dates the appellant should ensure that each date suits everyone he/she wishes to attend. Once the PAC arrangements have been fixed, any request for a postponement will ONLY be granted in the most compelling circumstances.
- The DoE is expected to accept the notified date and will only be granted a postponement in the most compelling circumstances. Objectors and supporters will be informed of the time, date and venue arranged for the hearing and sent a proforma asking what further involvement they want in the hearing and if they wish to make a Statement of Case.

Given that appeals are initiated by the appellant and that only the DoE and the appellant have a statutory right of hearing, hearing or site visit dates will not be postponed at the request of third parties.

- All parties will be informed of the timetable for the submission of their Statements of Case and the number of copies that will be required. It is advisable to appoint representatives or witnesses early so as to give them sufficient time to gather the evidence necessary to support the case being made.
- Hearings within the Council areas of Belfast, Lisburn, Carrickfergus, Castlereagh, Newtownabbey and North Down will be heard at the PAC's Offices in Belfast. Other hearings are normally conducted in a venue in the District Council area of the appeal site. Alternatively the appellant may choose to use the PAC's offices in Belfast.

If you or anyone you know wishes to take part in a hearing or site visit and you have special needs such as a requirement for disabled access, please contact the PAC at any early stage so that we can seek to make appropriate arrangements.

### [65] For an Accompanied Site Visit:

- All parties will be informed of the date of the accompanied site visit normally at least eight weeks before this takes place. The arrangements cannot be changed except in the most compelling circumstances.

## Statements of Case

- [66] Statements of Case must be submitted by all parties participating in appeals. You must arrange for the required number of full copies to be sent to the Commission by the specified date. The number of copies you need to submit will be indicated to you by letter. Copies received after the specified date or which are incomplete on the specified date will not be accepted by the PAC and will be sent back.

Your Statement of Case should not exceed 1500 words and should include:-

- **all** the evidence to support your case, including the evidence of all your witnesses;
- a list of documents referred to; and
- any relevant maps at A3 or A4 size only;

If you are referring to other cases or appeal decisions then full copies of the case or appeal decision must be included. Advice for both appellants and third parties on preparing a Statement of Case is available in Appendix IV. **IT MUST BE SUBMITTED ON TIME.**

Parties, mainly the appellant and the DoE, should seek to agree facts/methodologies and identify areas of agreement and areas of dispute. These should be set out in the Statement of Case and evidence should concentrate on the matters in dispute. Draft conditions, submitted on a without prejudice basis, should be appended to the DOE's Statement of Case.

Parties seeking to introduce new issues at a hearing or WR site visit will have to persuade the Commissioner that they are relevant issues and that they could not have been dealt with in the Statement of Case. The introduction of such late evidence is to be avoided as it could result in adjournment of the proceedings

- [67] The time limits for submission of Statements of Case and the exchange of documents will be applied strictly and will only be extended in the most exceptional circumstances. If anyone fails to submit within the specified period they will not receive the documentation supplied by the other parties and the appeal will proceed to determination on the basis of the information available to the PAC.
- [68] Site visits and hearings are open to the public and anyone can attend. If anyone did not submit a Statement of Case within the appropriate time, they will only be allowed to take part in the hearing or site visit as permitted by the Commissioner.

## Preparing for the Appeal

- [69] There is a considerable amount of preparatory work to be carried out for an appeal and it is advisable to give yourself sufficient preparation time in order to be able to submit your Statement of Case on time. Copies of all papers sent by the DoE to the PAC, including consultation responses are sent to the appellant and are available to all other parties on payment of a charge.

- [70] Copies of previous Commissioners' reports and PAC decision letters are available on the PAC website: [www.pacni.gov.uk](http://www.pacni.gov.uk).

## What Happens at an Informal Hearing?

- [71] Statements of Case are not read out and the hearing takes the form of a discussion led by the Commissioner who identifies the main issues and sets out, usually in an agenda, the issues requiring further clarification. All parties are given the opportunity to add to the agenda. The hearing is conducted on the basis of a round table discussion of these issues, led by the Commissioner and based on the agenda. All parties are given an opportunity to get involved in the round table discussion. Formal rebuttal evidence may not be introduced at informal hearings but there will be an opportunity to raise relevant rebuttal points during the exploration of issues in the course of discussion led by the Commissioner.
- [72] When the Commissioner considers that there has been sufficient investigation and clarification of an issue he/she will indicate that discussion should move on to the next issue. All parties may be assisted in the discussion by an agent or adviser, and although this is not essential it is a matter for the parties, and legal representation should not be necessary. Any representatives you bring along must accept that there is no formal questioning at such hearings. During the hearing the Commissioner may decide to adjourn it to the site in order to deal with site specific issues. If this is done, discussion at the site will be confined to those site-specific matters.

## What Happens at a Formal Hearing?

- [73] Statements of Case are not read out at the hearing. Parties may be professionally represented (but do not have to be so) and witnesses may be available to answer questions and discuss points arising from their Statement of Case. Parties, in turn, briefly summarise the case already made in their Statement of Case and rebut, in either oral or written form, points made in opposing Statements of Case. This is probed through questioning by the other parties and by the Commissioner. The usual order of presentation is that the DoE presents its evidence first and is questioned; followed in order by objectors (or their spokesperson), the appellant and finally supporters (or their spokesperson). There are no formal closing statements.
- [74] Keep the opening remarks precise. As the Commission requires all issues and relevant material to be contained in the Statement of Case it is not expected that new issues will be raised by you at the hearing, although the Commissioner's attention should be drawn to changes that have taken place since your Statement of Case was sent in. Further documents will only be accepted at the discretion of the Commissioner. Any new maps or plans must be available at A3 and/or A4 size. If any documents are accepted two copies must be given to the Commissioner and enough copies made for the other parties. If the parties have reached some common agreement on technical evidence this should be identified to the Commissioner, but a postponement of the hearing will not be granted in order for negotiations on such agreement to be continued.

[75] 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 hearing. 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.

[76] The Commissioner will first hear the evidence relating to any legal grounds of appeal that have been pleaded. This means, in the case of an enforcement notice appeal, Grounds (b) to (e). In the case of a listed building enforcement notice appeal, it means Grounds (a), (b), (c) and (f). In the case of a submission notice appeal, all the grounds are legal grounds. Invalidity and errors with the notice are also legal issues.

In so far as the legal grounds of appeal are concerned, the appellant must establish his or her case. For this reason, the appellant's evidence will be heard first, followed by that of any supporters, then the DoE's evidence and finally that of any objectors.

[77] When the evidence relating to the legal issues is complete, the Commissioner will then turn to the planning merits of the case. This means, in the case of an enforcement notice appeal, Ground (a) (if pleaded) and the deemed planning application (if the appropriate fee was paid). In the case of a listed building enforcement notice appeal, it means Grounds (d) and (e). In this part of the proceedings, the DoE's evidence will be heard first, followed by that of any objectors, then the appellant's witnesses and finally that of any supporters.

[78] When the evidence relating to the planning merits is complete, the Commissioner will then hear the evidence relating to any administrative grounds that have been pleaded. This means, in the case of an enforcement notice appeal, Grounds (f) and (g). In the case of a listed building enforcement notice appeal, it means Grounds (g) to (k). The appellant's evidence will be heard first, followed by that of any supporters, then the DoE's evidence and finally that of any objectors.

## What Happens at Site Visits?

The Commissioner always visits the site before making a decision or a recommendation on a WR appeal case.

## A WR Site Visit

- [79] When an accompanied site visit is held the purpose is to address site specific issues raised by the Commissioner but occasionally clarification of other matters may be sought by the Commissioner. **THE SITE VISIT IS NOT AN OPEN AIR HEARING.** If the Commissioner arrives on the site to find one of the parties invited to attend is not present, the site visit will nevertheless proceed.

## Site Visits for Hearings

- [80] The Commissioner always visits the site and the parties are offered the opportunity to attend if they wish. The Commissioner will indicate at the hearing if he/she requires the parties to attend and this must be arranged at the hearing. Parties cannot simply turn up at the site visit without having indicated their intention to the Commissioner at the hearing. The Commissioner controls the site visit.

## **Evidence Submitted after the Hearing or Site Visit**

- [81] No evidence should be submitted after the hearing or site visit unless this has been agreed at the hearing or site visit by the Commissioner. Any evidence sent to the PAC, which was not agreed by the Commissioner will be returned.

## **Powers of the PAC**

- [82] In determining an appeal against an enforcement notice, a listed building enforcement notice or a submission notice, the PAC has the power to quash the notice, vary its terms or uphold it. It may also correct any misdescription, defect or error in the notice or vary its terms, if it is satisfied that the correction or variation can be made without injustice to the appellant or to the DoE. In the case of an enforcement notice appeal, it may approve the deemed planning application in whole or in part. In the case of an appeal against a listed building enforcement notice, it may grant listed building consent for the works to which the notice relates or for part only of those works.

## **The PAC Decision**

- [83] After the appeal hearing and/or the appropriate site visit has taken place the Commissioner considers the evidence. If the decision is by an individual Commissioner, that Commissioner prepares a decision letter which is issued by the PAC to all parties. If the decision is collective the Commissioner prepares a report with a recommendation which is copied to a panel of Commissioners. They study the report and recommendation and may visit the site, if that has been agreed to by the parties at the hearing. After this a decision will be taken by the panel, of no fewer than four Commissioners, at a meeting at which reports and recommendations are discussed.
- [84] Since collective appeal decisions are taken by the Commission, the recommendation of the appointed Commissioner may not be accepted. Where

the PAC reaches a different conclusion, the decision letter of the PAC sets out clearly the full reasoning which gave rise to the decision. The PAC decision letter and not the Commissioner's report is the appeal decision. The PAC decision (individual or collective) is final. There is no further appeal except on a point of law to the High Court (see paragraphs 55-56).

[85] The PAC informs all parties of its decision. If it is a collective decision, the DoE, appellant and objectors/supporters (who attended the hearing or took part in the exchange of written submissions or attended the accompanied site visit) also receive copies of the Commissioner's report. If anyone was represented by an agent then the decision letter and report [if applicable] go to the agent. Copies of the decision letter and the report [if applicable] are available to anyone who asks for a copy or may be viewed on the Commission's website.

## Refund of the Deemed Application Fee

[86] The deemed application fee (but not the appeal fee) will be refunded in the following circumstances:

- (i) When the PAC declines jurisdiction on the grounds that the appeal does not comply with statutory requirements. Examples include cases where the appeal is not received before the effective date of the notice, no grounds of appeal are specified and no facts have been stated in respect of grounds of appeal.
- (ii) When the appeal succeeds on a legal ground. There is, however, one exception. There can be no refund of the deemed application fee in an enforcement appeal involving an allegation that a caravan stationed for the purposes of human habitation on any land is in breach of planning control.
- (iii) When the PAC quashes the notice because it is null and void or is invalid or defective to the extent that it cannot be corrected without prejudice to the appellant or the DoE.
- (iv) When notice of withdrawal of the appeal is received by the PAC before the date appointed for its hearing or, in written representations cases, before the date of the site inspection.
- (v) When the DoE withdraws the enforcement notice at any stage of an appeal against it.

[87] When the PAC varies an enforcement notice so that the description of the development is changed and a lower fee becomes appropriate, the difference between the amount paid and the lower fee will be refunded.

## Complaints

[88] A complaint is any expression of dissatisfaction by any party involved in the process about the way the PAC handled an appeal. Complaints must be made within six

months of the date of the PAC's decision on an appeal. A complaint should be made in writing to the Chief Administrative Officer of the PAC and will normally be acknowledged within seven working days of receipt. Complaints raising issues about an appeal which is still being processed by the Commission will not be responded to until consideration of that case has been completed. In the event of legal proceedings being initiated while a complaint is under consideration, the matter will be addressed through the legal process and not the complaints system.

- [89] Apart from the circumstances set out above, complaints will be investigated and a full reply will normally be issued within four weeks. Where this is not possible an interim reply will be issued within the four weeks indicating when a full response will be made.
- [90] All complaints are investigated at a senior level by Commissioners or Administrative Staff 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.
- [91] 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.
- [92] Please note that the PAC cannot reconsider or alter an appeal decision once it has been issued. However, the PAC may issue a corrected decision letter or Commissioner's report (not a revised decision letter or report) correcting:
- (i) obvious typographical and textual errors; and
  - (ii) wording which all parties, including the PAC and Commissioner, agree cannot be right.

## **Complaints to the Parliamentary Ombudsman for Northern Ireland**

- [93] 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 an appeal or to alter the PAC's decision.

## **Challenging the Commission in the Courts**

- [94] Commission decisions or rulings may be challenged by application for a judicial review to the High Court. This must be done promptly or in any event within three months of the appeal decision and you will need legal advice.
- [95] The grounds for review may only be made on a point of law which in essence means that it has to be demonstrated that the decision is illegal, irrational or procedurally improper.

# **Appendix I**

## **Data Protection and Freedom of Information in the Planning and Water Appeals Commissions**

## DATA PROTECTION AND FREEDOM OF INFORMATION IN THE PLANNING AND WATER APPEALS COMMISSIONS

**The Data Protection Act** regulates the processing of information relating to individuals, including the obtaining, holding, use or disclosure of such information. The Commissions are fully committed to complying with the Act.

When processing an appeal, representations about a major development under Article 31 of the Planning (NI) Order 1991 or objections to a draft development plan, the Commissions receive a range of personal information from a number of sources, which falls within the remit of the Data Protection Act. This includes:-

- the original application, together with any documents of support or objection;
- the appeal form, together with any other documents of support or objection.

The information received by the Commission varies but may include

- details of an individual's name, address and occupation;
- information about the health, personal or family circumstances of an individual; and
- an individual's opinions about an application or appeal.

This information is held and considered by the Commissions in accordance with the principles set out in the Data Protection Act.

It is only used by the Commissions for considering the appeal or objection. It is only retained as long as reasonably necessary, usually no longer than a year from the completion of the Commission's work. However, all appeal decisions must have clear reasons for the conclusions reached and it may be necessary to refer to an individual's personal or family circumstances in a decision. All decisions are published on the Commissions' website at [www.pacni.gov.uk](http://www.pacni.gov.uk) and retained indefinitely. In addition, the Department of the Environment must register all appeal decisions by the Planning Appeals Commission in the Planning Register.

The Commission is a tribunal and must operate openly, fairly and impartially. All documents on casework files can be viewed by any member of the public, under the Commissions' supervision.

An individual should therefore only provide personal information that he/she accepts will be available to the public. No-one should present personal information about other people (including family members) unless he/she has

informed the person concerned and it has been agreed that the information could be provided to the Commission.

Under the Data Protection Act, an individual can request access to his/her personal information held by the Commission. Such requests should be in writing and sent to the address below. There is a charge of £10 for requests and the person making the request will also need to send proof of identity.

A request made under the Data Protection Act should include:-

- the specific information which is being sought;
- who you are and how you can be contacted;
- how you would like to receive the information.

Please also identify any accessibility requirements you may have and if you need to receive the information in a particular format, for example, large print, Braille etc.

You are entitled to a response to your request within 40 calendar days. It is in the Commissions' and your interests to hold accurate data. If the data is inaccurate, you can ask us to erase, amend or add to the information though you should note that personal or family circumstances referred to in an appeal decision cannot be changed. There will be no charge for this.

Any complaints about how the Commission dealt with requests about information, will be processed in accordance with the Commissions Complaints System which is published under Publications on Commissions website. These complaints will not be reviewed by the Complaints Audit Panel, see below.

If you remain dissatisfied with the Commission's response to your information request you may contact the Information Commissioner at

51 Adelaide Street  
BELFAST BT2 8FE  
Telephone number: (028) 9026-9380  
Fax number: (028) 9026-9388  
email address: [ni@ico.gsi.gov.uk](mailto:ni@ico.gsi.gov.uk); or  
website address: [www.ico.gov.uk](http://www.ico.gov.uk).

Requests for access to personal information should be sent to

Chief Administrative Officer  
Park House  
87-91 Great Victoria Street  
BELFAST BT2 7AG  
Telephone number: (028) 9024-4710  
Fax number: (028) 9031-1338  
e-mail address: [info@pacni.gov.uk](mailto:info@pacni.gov.uk)  
website address: [www.pacni.gov.uk](http://www.pacni.gov.uk)

The Commissions will review procedures regularly to ensure continued compliance with the Data Protection Act.

**Freedom of Information Act** - The Commissions are not identified as Public Authorities under the Act. The Environmental Information Regulations 2004 apply to any body that has public responsibilities relating to the environment, exercises functions of a public nature relating to the environment or provides public services relating to the environment. This could include the Commissions but the Regulations do not apply to the extent that the Commissions are acting in a judicial capacity. Nonetheless, as tribunals, which operate openly fairly and impartially, the Commissions seek to comply with the spirit of the Act and Regulations.

March 2010

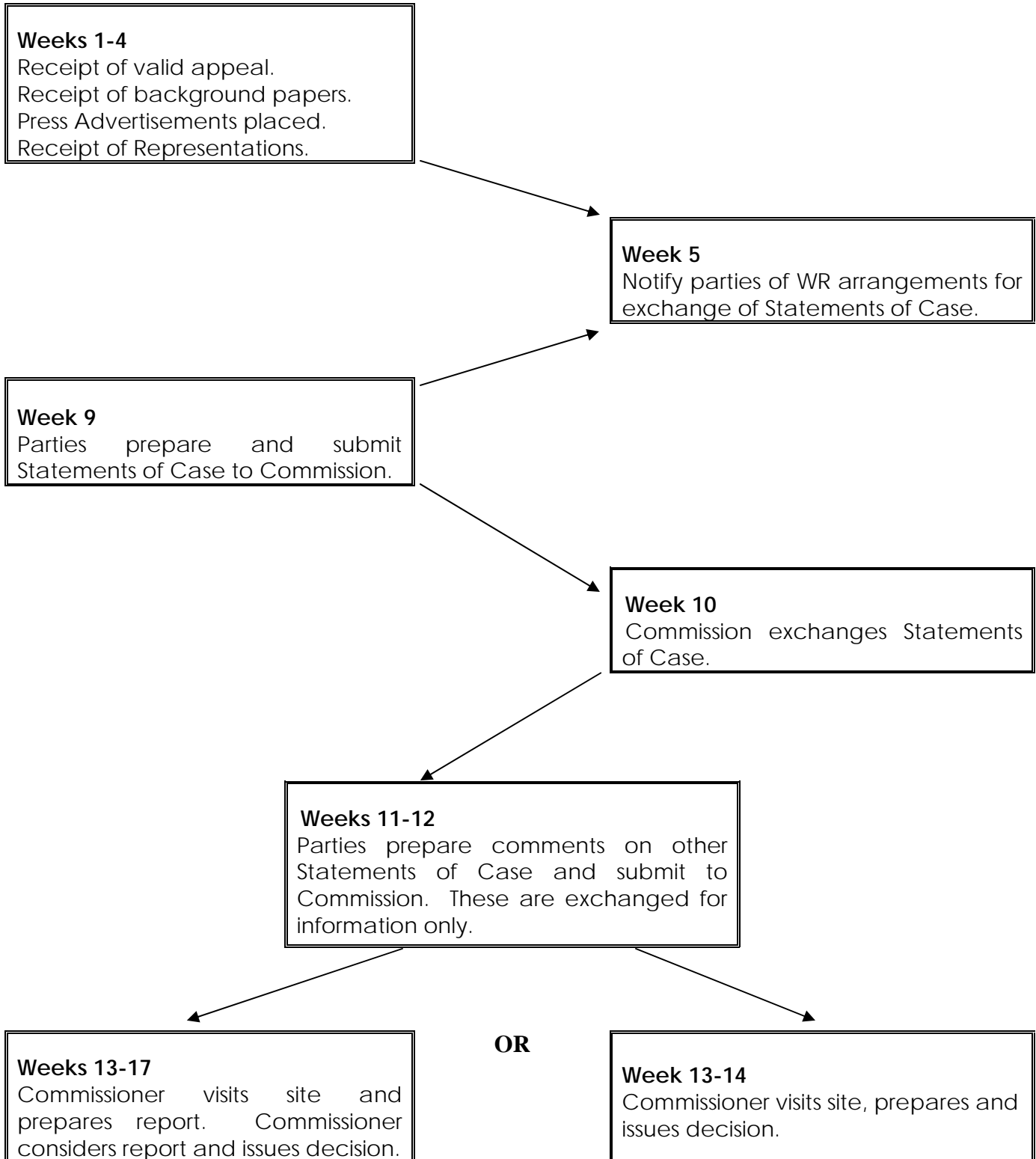
## Appendix II

# Illustrative Procedural Charts

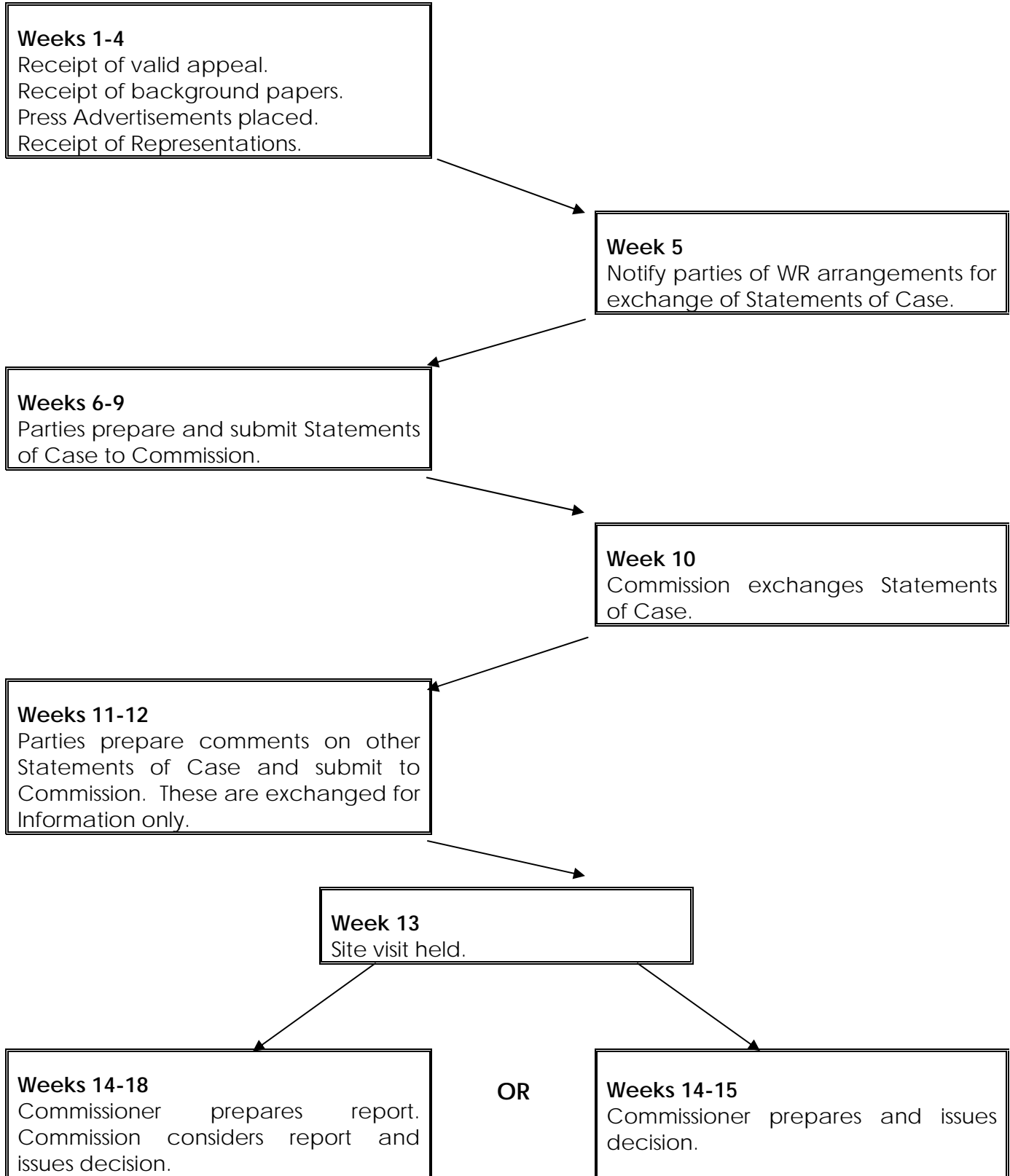
June 2007

**HEARING/WRITTEN REPRESENTATION PROCEDURES**

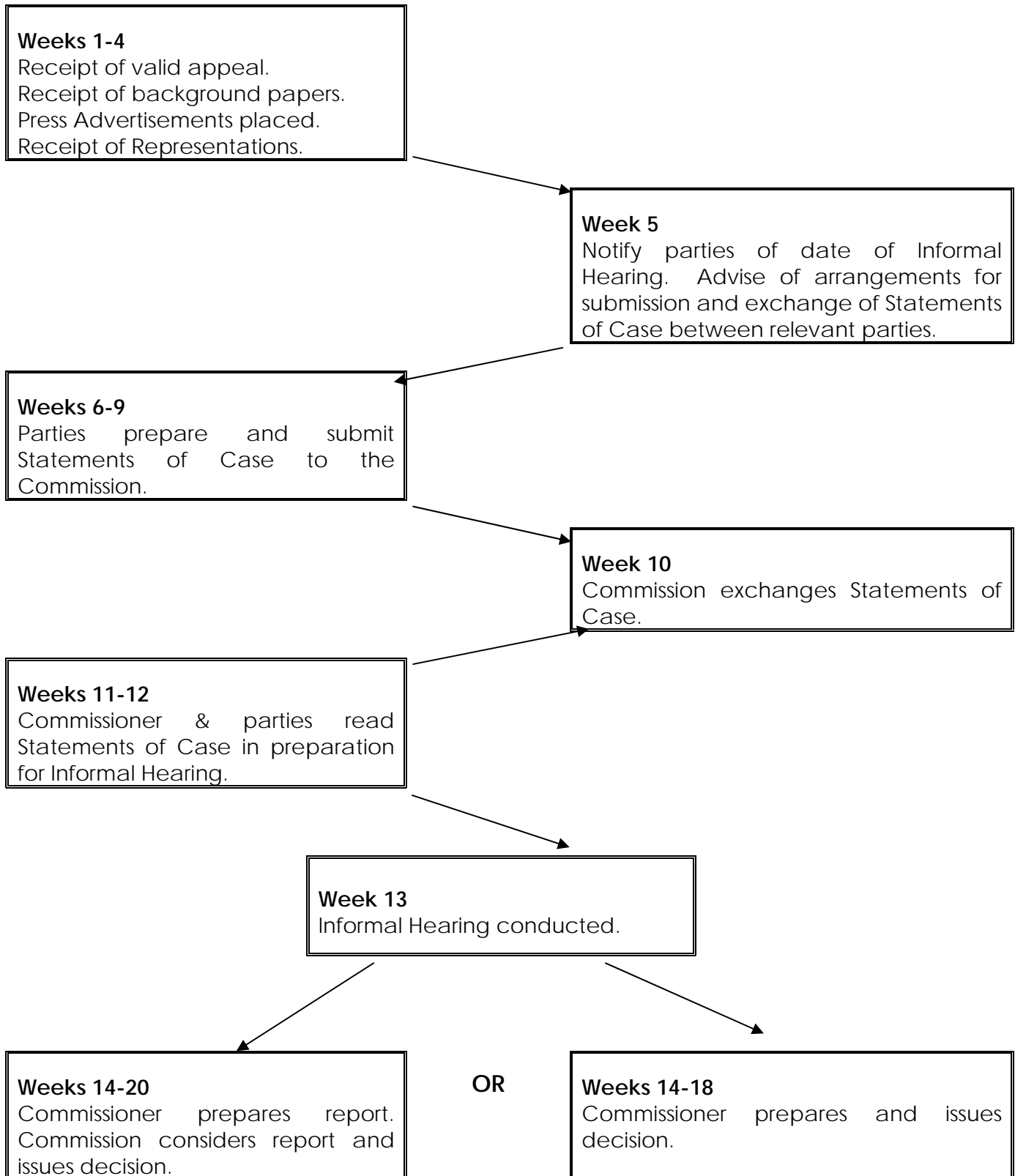
**PROCEDURES FOR WRITTEN REPRESENTATIONS  
WITHOUT AN ACCOMPANIED SITE VISIT**



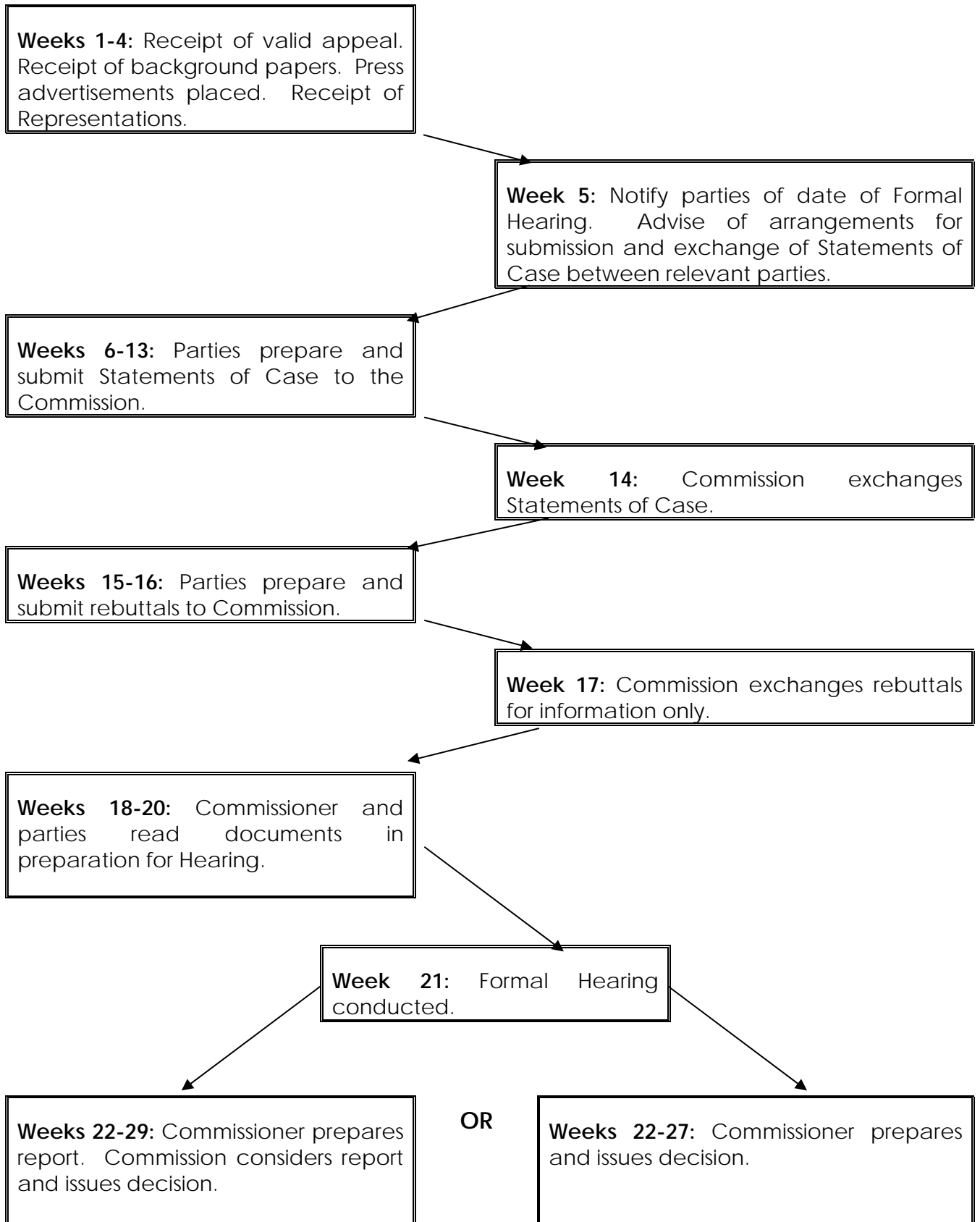
**PROCEDURES FOR WRITTEN REPRESENTATIONS  
WITH AN ACCOMPANIED SITE VISIT**



## PROCEDURES FOR INFORMAL HEARING



## PROCEDURES FOR FORMAL HEARING



# **Appendix III**

## **Key Planning Legislation**

## **KEY PLANNING AND WATER LEGISLATION**

The Planning (Northern Ireland) Order 1991 as amended by the Planning (Amendment) (Northern Ireland) Order 2003.

The Planning (General Development) Order (Northern Ireland) 1993 as amended.

The Planning (Use Classes) Order (Northern Ireland) 2004.

The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999.

The Planning (Fees) Regulations (Northern Ireland) 1995 as amended.

The Planning (Listed Buildings) Regulations (Northern Ireland) 1992.

**Appendix IV**  
**Advice on Preparation of**  
**Statements of Case**

## ADVICE ON PREPARATION OF STATEMENTS OF CASE

A Statement of Case should not exceed 1500 words and should contain all the points you wish to make to support your case. It **must** be submitted within the specified time limits.

### 1.0 Appellants

Your statement may include the following:

- (i) **Background** – it may not be relevant to describe the background to your proposal as the DoE's Statement of Case will set out the planning history of your application and you will, if necessary, have an opportunity to comment on this at the hearing. However, there may be background matters which you may wish to highlight.
- (ii) **Site Description** – if the issues raised by the appeal involve site specific matters you should include a description of the site and its surroundings drawing attention to what you regard as critical factual features.
- (iii) **DoE's Points** – you may wish to address DOE point in turn or use a series of topics in relation to the main issues. It is important that you clearly set out why you consider that the objections are not justified. To assist you in this you should examine any policy documents. If you are not sure which documents are relevant you should ask the local Divisional Planning Office which policy documents the DoE will be relying on and where they are available. You may refer to other policy documents/ guidance which you think are relevant.
- (iv) If you are appealing on **legal grounds** you should set out all the facts and attach the supporting statements or documents on which you are relying.
- (v) **Objections** – (if any) you should deal with each issue raised by objectors in turn which has not already been covered in your response to the DoE's points.
- (vi) **Other Issues** – if there are any other relevant issues which you feel support your case you should deal with each one in turn.
- (vii) **Maps** – Maps should be either A4 or A3 size. Photographs can be used but their location should be clearly identified on a map.

## 2.0 Third Party Objectors/Supporters

Your statement may include the following:

- (i) **Background** – it will probably not be necessary to refer to the background of the appeal as the DoE and/or appellant will deal with this and you will, if necessary, be able to clarify any points at the hearing.
- (ii) **Site Description** – again the position as set out in 2.0(i) above will generally apply. However, you may feel that it is appropriate to highlight some features of the site relevant to your particular grounds of objection/support.
- (iii) **DoE's Points** – objectors should briefly indicate if and why they support the DoE's stance and then deal in turn and in more detail with other issues which have not been raised by the DoE but which are considered to be relevant. Likewise supporters should set out in turn the relevant issues leading them to favour the development. Supporters may consider it appropriate to liaise with the appellant and, if both parties agree, include their views as part of the appellant's Statement of Case rather than making a separate submission.

The general comments relating to policy documents, etc, set out under 1.0(iii) also apply to objectors/supporters.

**Original Letters of Objection/Support** – if you consider that you have covered all the points you wish to make in your letter of objection/support submitted in respect of the advertisement of the application/appeal, you may simply send in the required number of copies of these letters with a note indicating that they are to be treated as your Statement of Case.

**Common Cause** – objectors or supporters **should** join together with other third parties (if any) sharing a common cause and submit a single Statement of Case (see paragraphs 16-18 of the main booklet).

## 3.0 General Advice

**Statements of Case should:**

- (i) Concentrate on the main arguments you wish to make for or against the development/proposal.
- (ii) Deal very briefly with relevant minor or secondary issues which do not affect the principle of whether the development/proposal should be accepted or rejected.
- (iii) Avoid issues which are not relevant as these will not add anything to your case.

- (iv) Avoid lengthy quotations from published policy documents/guidance as the Commissioner will have copies of these.
- (v) Aim for clarity and be brief while covering all relevant matters.

**Note:** The Commission's administrative staff are available to answer any queries you may have on procedures but cannot provide technical advice or comment on the merits of appeals.

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