

Procedures for Public Local Inquiries and Hearings into Major Planning Applications

Contents

	Paragraphs
Introduction	1-2
The Planning Appeals Commission	3-6
The Legislation	7
Role of the Department of the Environment before the Inquiry or Hearing	8-10
Organisation of the Inquiry or Hearing	11-12
Notification of Arrangements	13-14
How to Pursue a Representation	15-18
Statements of Case	19-20
The Public Inquiry or Hearing - What happens	21-24
Observing the Inquiry or Hearing	25
Close of the Inquiry or Hearing	26-28
Role of the Department of the Environment after the Inquiry or Hearing	29
Complaints	30-32
Complaints to the Parliamentary Ombudsman for Northern Ireland	33
Appendix 1 - The Inquiry or Hearing Procedure - The Main Events	
Appendix 2 - Sample Questionnaire	
Appendix 3 - Data Protection and Freedom of Information in the Planning and Water Appeals Commissions	
Appendix 4 - Formal Procedures at the Inquiry or Hearing.	

Introduction

- [1] Although this booklet is not an exact statement of the law relating to Public Local Inquiries and Hearings the information it contains will assist those taking part in Inquiries and Hearings as applicants, objectors or supporters.

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

- [2] If you need help about pursuing representations on a major planning application 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 PO Box 69, Carrickfergus, Co Antrim BT38 8WX.

All information presented to the Commission will be processed in accordance with the Data Protection Act (see Appendix 3).

The Planning Appeals Commission

- [3] The Planning Appeals Commission (PAC) exists under the Planning (Northern Ireland) Order 1991. It is an independent body which, at the request of the Department of the Environment (DoE) conducts Inquiries or Hearings to consider major planning applications. The PAC is not part of any Government Department.

The PAC report on an Inquiry or Hearing can be made by:

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

- [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 recommendations to the PAC or the DoE on the outcome of major planning applications after studying written submissions from the parties involved and after conducting the Inquiry or Hearing.
- [5] The PAC aims to make recommendations in an efficient manner through the most effective procedures appropriate to each application. This requires the co-

operation of all involved. The PAC is committed to ensuring that the Inquiry or Hearing 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 representations or offer advice or guidance on the outcome of the planning application.

The Legislation

- [7] The special procedure for major planning applications is set out in Article 31 of The Planning (NI) Order 1991. The DoE decision on such applications is final. The Planning (Environmental Impact Assessment) Regulations (NI) 1999 may be applicable.

Role of the Department of the Environment before the Inquiry or Hearing

- [8] The DoE decides whether a planning application is to be a major planning application - this decision has to be made within two months of the date of the application (or 16 weeks from the receipt of an Environmental Statement if the submission of one is required). Normal procedures for considering planning applications apply including advertising and consultation with District Councils.
- [9] Having considered the application, including representations received from the public, the DoE must decide whether to request the PAC to hold a Public Local Inquiry or to serve a notice on the applicant indicating the decision which it proposes to make (referred to as a Notice of Opinion). If the applicant requests a Hearing before the PAC within the period specified in the Notice of Opinion, the DoE must ask the PAC to conduct a Hearing.
- [10] In the case of a Public Local Inquiry, while the DoE will be expected to express views on the application, it will not indicate what its decision on the application might be. In a Hearing case the Department will have set out its reasons for refusal or the conditions to be attached to an approval on the Notice of Opinion and will seek to justify these.

When the Department refers a major planning application to the PAC to conduct either an Inquiry or Hearing it also sends the PAC copies of all written representations it has received. There is no need to write separately to the PAC to register your interest in the application as the PAC will write to you setting out arrangements for the Inquiry or Hearing.

Organisation of the Inquiry or Hearing

- [11] The Inquiry or Hearing is organised by the PAC. The Chief Commissioner appoints a Commissioner or Commissioners to conduct the Inquiry or Hearing and decides the type of report. The Chief Commissioner will decide whether the PAC report shall be made by the Commissioner who conducts it or by a Panel of

Commissioners, some or all of whom may be conducting the Inquiry or Hearing. If a Panel is appointed, the Chief Commissioner will nominate a chairman who will have a casting vote. There are two types of report:-

- (a) a **full report** summarises the cases for the parties followed by the Commissioner's or the Panel's reasoning and recommendations; and
- (b) a **short report** does not summarise the cases for the parties but sets out the Commissioner's or the Panel's reasoning and recommendations.

[12] To ensure that large Inquiries or Hearings run efficiently, the PAC may organise a pre-Inquiry or pre-Hearing meeting. Appendix 1 sets out the main events in organising the Inquiry or Hearing.

Notification of Arrangements

[13] The PAC writes to the DoE, applicant and all who have made representations (objectors and supporters) informing them of:

- the time and place of the Inquiry or Hearing and any pre-Inquiry/pre-Hearing meeting;
- the arrangements for submission of Statements of Case and rebuttal statements;
- procedures to be followed at the Inquiry/Hearing; and
- as appropriate, the structure, topics and length of Statements of Case.

[14] A questionnaire is enclosed for objectors and supporters asking them to indicate how they intend to proceed. There is a sample questionnaire at Appendix 2. These questionnaires are used to draw up the programme for the Inquiry or Hearing and it is therefore important that they are carefully completed. If on your questionnaire you nominate an agent to represent you, the PAC will correspond with your agent and not with you.

The PAC will consider all representations on applications unless they are withdrawn. If you do not pursue your representation at the Inquiry or Hearing the PAC will still take it into consideration.

How to Pursue a Representation

[15] There are two methods of pursuing representations. You should select **one** of these and indicate this on your questionnaire:

- (a) make a further written submission to the PAC but not take part in the Inquiry or Hearing; or
- (b) submit a Statement of Case and take part in the Inquiry or Hearing.

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

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

Tick Option 2 on the questionnaire. Written submissions should be sent to the PAC by the date specified by the PAC. These submissions will be exchanged with the Department, applicant and any other party holding a different view of the application.

(b) Submit Statement of Case and take part in the Inquiry or Hearing

Tick Option 3 on the questionnaire. Statements of Case should be submitted by the date specified by PAC for exchange between the parties.

If you are taking part in the Inquiry or Hearing the PAC expects that all points you wish to rely on and all evidence to support your case (including the evidence of all your witnesses) is set out in your Statement of Case. The introduction of new points at the Inquiry or Hearing should be avoided as it could result in delays.

Objectors or Supporters Pursuing the Same Cause

- [17] The PAC encourages objectors or supporters to join together to prepare Statements of Case and to participate in the Inquiry or Hearing. A single Statement produced jointly is acceptable and spokespersons can be chosen to deal with separate issues and to ask and answer questions or discuss issues on behalf of the group at the Inquiry or Hearing. The spokesperson can be assisted by the group during the Inquiry or Hearing. Similarly, agents representing groups pursuing the same cause should co-operate with one another.

The substance of representations is of more significance than the volume of objectors and supporters and there are advantages for parties sharing a common cause in pooling resources.

- [18] Supporters may consider it appropriate to liaise with the applicant and, if both parties agree, include their views as part of the applicant's Statement of Case rather than making a separate submission.

Statements of Case

- [19] If you are taking part in the Inquiry or Hearing you must submit a Statement of Case by the date specified by PAC. Third parties must provide four copies of their Statement of Case (unless advised otherwise) and the PAC will inform the Department and the applicant in writing of the number of copies they must provide. All Statements of Case will be exchanged by PAC.

Your Statement of Case must be a fully comprehensive document structured on a topic basis, consisting of **all** the points you wish to rely on, **all** the evidence to support your case (Including the evidence of all your witnesses), a list of documents referred to, and any relevant maps (A3 or A4 size only) and photographs. Appendices may be used for supporting information but argument must be confined to the main body of the statement. **The Statement of Case must be submitted on time.**

Parties, mainly the appellant and the DoE, should seek to agree facts and 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. The Department's Statement of Case should set out draft conditions on a without prejudice basis.

Parties seeking to introduce new issues at the Inquiry or Hearing will have to persuade the Commissioners 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 delays.

- [20] You should note, that unless the parties agree otherwise, Statements of Case will only be exchanged on a reciprocal basis. Therefore, if your Statement of Case is not available for exchange you may not receive copies of other parties' Statements of Case.

Ten working days before the Inquiry/Hearing all written submissions, Statements of Case, Rebuttal Statements and other documents submitted by the parties will be public documents and will be available for inspection at the PAC office.

The Public Inquiry or Hearing - What Happens

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

- [21] The Commissioner will direct when parties should speak or ask questions and any problems should be raised with him/her **in public** at an appropriate time during the Inquiry or Hearing. The Commissioner will ensure that all are given an opportunity to express their views and to ask and answer questions as appropriate.
- [22] Inquiries or Hearings will normally be conducted on a topic basis with strategic and policy issues considered first, followed by locational and site specific issues. The Commissioner will set out the order for topics in an agenda. The topics at the Inquiry or hearing will follow either formal or informal procedures. This will be indicated by the presiding Commissioner. If **formal procedures** are being used for a topic, the order for presenting evidence is as set out in Appendix 4. If the

informal procedure is being used for a topic the Commissioner will lead a round table discussion on each issue relating to the topic and will also give all parties an opportunity for formal questioning or submissions to address any matters not covered in the round table discussion.

- [23] Questioning of evidence assists the Commissioner in deciding what weight to give to that evidence. Witnesses should expect to have their evidence tested by opposing parties. It is most useful to the Commissioner when it tests the validity of facts, assumptions, opinions and conclusions and exposes any defects in the witnesses' statements. Don't raise issues through questioning which can be more clearly and concisely covered in direct evidence. Questions to a witness should be clear and brief and witnesses should not be interrupted when replying. If anyone wishes a witness to comment on a document they should give reasonable advance notice of the document and if a comment is requested on an extract from a document, the entire document should be produced at the Inquiry. Persistent and repetitive questions seeking to change the mind of a witness should be avoided. All witnesses must answer the question and can be pressed about their evidence and expert witnesses should expect to face robust questioning. However bullying tactics are out of place and questioning should not be aggressive. Non-expert witnesses should be questioned sensitively. While genuine wit and humour are not out of place, irrelevant asides and sarcasm are unhelpful and must be avoided.

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

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

Observing the Inquiry or Hearing

- [25] If you are not participating in the Inquiry or Hearing but just wish to observe you may do so. The Inquiry or Hearing is a public forum, all statements are made in public and all documents presented become public. The press attends occasionally and members of the public may attend as they wish. There is no 'live' coverage of sessions of the Inquiry by radio or TV. Proceedings may be recorded only with the prior permission of the presiding Commissioner and copies of the tapes must be provided for the PAC and all who request them.

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

Close of the Inquiry or Hearing

- [26] When all the evidence has been heard the Commissioner(s) will close the Inquiry or Hearing and will indicate when the report is expected to be delivered to the DoE.
- [27] The appointed Commissioner(s) will consider all the evidence presented by all of the parties on each issue, will visit the site and will prepare the Inquiry or Hearing report. A **full Inquiry report** will concisely but comprehensively summarise the evidence presented and indicate the Commissioner's reasoned consideration of the issues and recommendation on the application. A full report is always necessary when Commissioners other than presiding Commissioners are involved in deciding PAC recommendations to the DoE. A **short Inquiry report** will not summarise the evidence presented but will indicate the Commissioner's reasoned consideration of the issues and recommendation on the application.

The arrangements for visiting the site will be explained before the close of the Inquiry or Hearing but generally the Commissioners' visits to the site are unaccompanied. If there is to be an accompanied site visit arrangements for this will be made before the close of the Inquiry or Hearing.

- [28] If the recommendations and advice to the DoE are to be made by a Panel of Commissioners, the Panel may visit the site and surrounding area and decide collectively its recommendation to the DoE on the application. The Panel may decide not to accept the advice of the reporting Commissioner(s). When this occurs the Panel's reasons for doing so will be set out in its report to the DoE, a separate document which is attached to the front of the appointed Commissioner's report. The reports of the PAC (Panel) and the Commissioner(s) are presented to the DoE. The PAC is required by the Planning Order to report to the DoE, and it is normal practice that neither the PAC report nor the Commissioner's report is released to the public at this stage. The PAC will, however, indicate on its website that it has presented its report to the DoE.

Role of the Department of the Environment after the Inquiry or Hearing

- [29] The DoE must take into account the PAC's report of the Inquiry or Hearing before it decides the application but may not accept the PAC's recommendation. The Department will issue a decision and publish the PAC's report.

Complaints

- [30] A complaint is any expression of dissatisfaction, by anyone involved in the process, about the way the PAC handled the case. Complaints must be made within six months of the DoE's decision on the application. A complaint should be made in writing to the Chief Administrative Officer of the PAC and will normally be acknowledged within 7 working days of receipt. Complaints raising issues with a bearing on the merits of an application 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.

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 a holding reply will be issued within the four weeks indicating when a full response will be made.

- [31] All complaints are investigated at management level by persons not directly involved in the matter giving rise to the complaint. Anyone dissatisfied with the written response to their complaint may request a meeting to discuss the matter. Complaint files are open for public inspection.
- [32] 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 and presents a report to the Chief Commissioner which is available to the public.

Complaints to the Parliamentary Ombudsman for Northern Ireland

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

The Inquiry or Hearing Procedure - The Main Events

The DoE applies Article 31 and requests the PAC to conduct the Inquiry or Hearing.	
The PAC notifies the DoE, applicant and those who made representations (objectors and supporters) of arrangements enclosing questionnaires for completion by those who made representations.	
Objectors and supporters return questionnaires to the PAC.	
Parties prepare and submit Statements of Case to PAC. PAC exchanges Statements of Case.	
Parties prepare and submit Rebuttal Statements to PAC. PAC exchanges Rebuttal Statements.	
The Commissioner(s) conducts the Inquiry or Hearing.	
The Commissioner(s) prepares the Inquiry or Hearing report.	
When appropriate the PAC Panel considers the Commissioner's report and reaches a collective recommendation on the application.	
The PAC sends the Inquiry or Hearing report to the DoE.	
The DoE considers the report and PAC recommendation.	
The DoE issues its decision on the application and publishes the PAC's report.	

Objectors'/Supporters' Questionnaire (Sample)

PUBLIC LOCAL INQUIRY/HEARING Description of Development :	PAC REF: REPRESENTATION NO:
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Planning Appeals Commission, Park House, 87-91 Great Victoria Street, BELFAST BT2 7AG

Tel: (028) 9024-4710 **Fax:** (028) 9031-2536 **Website:** www@pacni.gov.uk

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

Name of Objector/Supporter:

Address:

Telephone Number:-

E-Mail Address:-

Name of Agent: (if any)

Address

Telephone Number:

E-Mail Address:-

OPTIONS (✓ one box only)

1. I will rely on my original letter of objection/support and will make **no** further submission and will **not** take part in the Inquiry/Hearing.
2. I/my agent will make a further written submission by _____ (date) and will **not** take part in the Inquiry/Hearing.
3. I/my agent will submit a Statement of Case by _____ (date) and will take part in the Inquiry/Hearing.

If you intend to take part in the Inquiry/Hearing would you be willing to join with others adding similar views on the application?

(Please tick one box) Yes No

A list of the names of objectors/supporters may be viewed at the Commission offices or obtained from the Commission.

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 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; or
website address: www.ico.gov.uk.

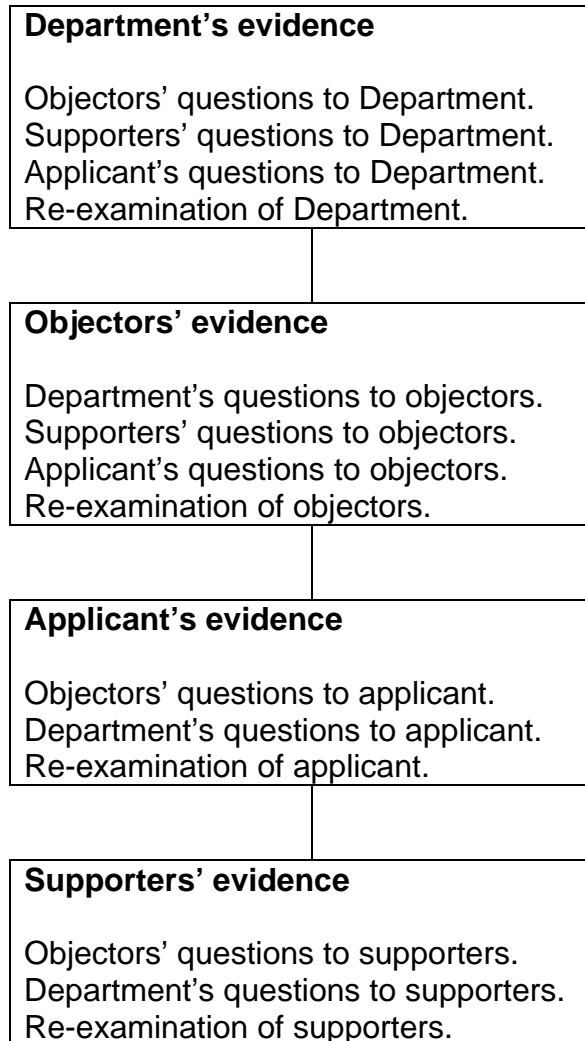
Requests for access to personal information should be sent to

The 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
website address: 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.

Formal Procedures at the Inquiry or Hearing



**Published by the Planning Appeals Commission
Park House
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**Tel: (028) 9024-4710
Fax: (028) 9031-2536**

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Website: www.pacni.gov.uk**

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