



PACWAC COVID-19 REMOTE HEARINGS PROTOCOL

VERSION 4

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12/08/2020	CC	Hear and Decide clarification	2.0
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BACKGROUND

This protocol has been developed to provide a mechanism for facilitating remote oral hearings. Nothing in this protocol derogates from the Commissioner's duty to determine all issues that arise in a case in accordance with normal principles. Every remote hearing will be planned and conducted in a manner designed to secure every party's right to a fair hearing. Every remote location attended by the participants in a remote hearing forms part of and is an extension of the hearing. All participants must conduct themselves accordingly. The method by which all hearings are conducted will be a matter for the appointed Commissioner. This process will require frontloading and parties will have to be engaged early on.

There are four categories of individuals in remote hearings:

- The Administrator – this will be a member of PACWAC administrative staff who will be present and manage the hearing from an administrative perspective;
- The Commissioner – this will be the appointed Commissioner who will conduct the hearing;
- Participants – these will be the nominated speakers for each party who have submitted a statement of case. Participants will be expected to participate via video link;
- Observers – these will be individuals who wish to observe proceedings. Observers will be expected to observe by audio link/telephone/live streaming - depending on the medium provided for the specific hearing.

While it will be important to carry out the business in the hearing efficiently and in a reasonable timeframe, it should also be borne in mind that it may be necessary to plan the hearing on the basis of a number of sessions. We will provide parties with the necessary technical information and details relating to a forthcoming remote hearing in advance.

Recording of the session will not be undertaken by PACWAC and it is **not permitted for any other party to record or broadcast the event**. Thus no-one is permitted to make any video or audio or other recording or image whatsoever of any part of the proceedings. This absolute prohibition includes a 'screenshot' or 'screengrab' or other related images of the proceedings.

Given the introduction of this technology to the work of PACWAC all parties are urged to be sympathetic to the technological difficulties that may be experienced. This document will be subject to review and updated as appropriate. Please ensure that you are referring to the latest version which will be available on our website www.pacni.gov.uk.

PRE FIXING OF HEARING DATE

The Commission will write to parties involved in a case where a hearing has been requested seeking an indication of the expected representatives who would intend to appear. This will

be used to inform an initial assessment as to whether the case can potentially progress via remote means.

In order to frontload the hearing process and ensure that we can focus in on key areas of dispute it may be that the submission of rebuttal statements will be requested. Please note that no new papers can be accepted at a remote hearing.

Where a remote hearing is the course of action to be followed, the Commissioner (where they consider it necessary) will prepare an agenda for circulation by email to the parties clearly setting out the topics that they wish to address and in what order. Where there are a number of issues to address it may be that a number of sessions will be organised based on the agenda. The number of speaking participants in any session is likely to be limited to six participants in total (excluding the Commissioner). However, for complex cases and hear and report cases the number of speaking participants can be increased with prior agreement – this will be in exceptional circumstances. This will mean that parties may have to organise themselves on the basis of:

- 2 speakers (max) for the appellant in any one session – with exceptions
- 2 speakers (max) for the Council in any one session – with exceptions
- 2 speakers (max) for the third parties in any one session – with exceptions

Flexibility will be shown on a case by case basis up to the maximum number of video participants in any one session. You should inform the PAC if you wish more than 2 to attend from your party – this will be considered accordingly.

FIXING OF HEARING DATE

The date for the remote hearing will be set. Once the arrangements for a hearing have been fixed, any request for a postponement by the appellant or the authority will be granted only in the most compelling circumstances. The hearing date will be listed on the PACWAC website, www.pacni.gov.uk. If deemed necessary by the appointed Commissioner, the agenda will be circulated at least one week in advance of the hearing.

Parties will need to confirm speaking representatives and details of where the invitation for the remote hearing should be sent. Joining instructions should not be forwarded on to any other party. Where there is more than one speaking representative for a party, a team leader should be identified. These details should be provided within seven calendar days from when details of the hearing dates are issued.

Every proposed remote hearing participant using the technology for the first time should test the relevant technical mechanism where feasible in advance of the scheduled remote hearing date and advise PACWAC of any technical problems by email or telephone within 24 hours of

the link being issued. Where the link has been tested successfully and any party fails to join at the specified time the remote hearing will proceed in their absence unless contact is made with the Administrator to highlight new technical issues. It is critically important that parties test any link beforehand and report any technical issues to the Administrator at remotehearings@pacni.gov.uk.

Observers can register their interest in joining the hearing session through the remotehearings@pacni.gov.uk email address clearly stating the appeal reference. Interest must be registered at least 48 hours prior to the hearing session. Instructions to join the hearing will be provided.

LIVE STREAMING

In some cases, with a large number of observers the Commission may decide to live stream sessions to allow people to view the hearing as they would with a physical hearing. A link to the stream will be available on the Planning Appeals Commission's website (www.pacni.gov.uk) and this will allow people to keep up with the hearing in real time.

THE HEARING

A member of the PACWAC administrative team will host all remote hearings and will log into the session around thirty minutes before the start. All participants and observers are expected to be logged in at least fifteen minutes before the starting time of the hearing. The Administrator will check if you can hear and be heard and participants should then turn off their cameras until the hearing begins. Once the hearing starts the Administrator will lock the session. The Administrator will be present for the duration of the hearing to monitor the process from a technical perspective. They will mute and/or remove disruptive participants or observers on the Commissioner's instruction.

If you experience problems with your connection then please try again using the same Joining Instructions. If this doesn't work then you should immediately contact the Administrator by email or telephone using the contact details provided in the Joining Instructions. They will attempt to help you to join or re-join the hearing at an appropriate point. It may be that, if you initially joined by video, you can re-join by audio or by telephone, to limit the effect of any technical issues that you may have been experiencing.

External speakers have been known to contribute to feedback as the sound is picked up by the laptops own microphone and re-transmitted, thus causing a feedback loop. We recommend participants use earphones or headphones with a microphone in order to enhance the quality of communication. If a participant encounters sustained feedback issues, staying logged in by video while simultaneously telephoning in will provide an audio/visual experience.

WHEN THE HEARING COMMENCES

The Commissioner will open the hearing and it will proceed in line with their instructions. At the outset of every remote hearing the Commissioner will normally:

- Make introductory comments and state general housekeeping matters;
- Summarise orally the basic protocol to be observed and how the hearing will be conducted;
- Confirm all present are those expected to be so (as on the list) and no unauthorised person is on the call;
- Confirmation of the team leader;
- Set out the agenda and expected timings;
- Confirm all can hear and remind everyone that devices should be on mute at all times until invited to speak by the Commissioner;
- The Commissioner will then move round the participants for comments in turn and advise participants that once they have finished speaking, they please say so;
- If the Commissioner raises their hand – please stop talking;
- If you need to communicate with other members of your team or take instructions – please do so in private via separate communication channels;
- Remind all present that recording of proceedings is not authorised.

The Commissioner will control the hearing and will invite you to speak at the appropriate time.

In such exceptional circumstances where the PAC has agreed an increase in the number of speaking participants on screen during the session, when the Commissioner has heard from a speaker you should turn your video camera off and your microphone should be muted. There will be no more than 2 speakers per party at any one time with their video on. There will not be any cross examination, participant interruption or open discussion, and responses should always be directed to the Commissioner. Repetition of points should be avoided.

In line with the agenda the Commissioner will raise and invite responses to questions. The Commissioner's expectation is that each hearing/session will typically last for up to 90 minutes. However, the actual duration will depend on the progress made on the day. The Commissioner may introduce breaks in the session. There will be no more than three sessions in any one day.

- Before closing the hearing, the Commissioner will ensure that all parties are satisfied that all issues have been fully explored;
- Emphasise that no further evidence is to be presented unless during the hearing the submission of post hearing evidence has been agreed;
- An indicative timescale for the issue of the decision will be given.

The remote hearing will be closed.

Where for any reason the remote hearing session comes to an end without any prior warning you should await email instruction from the Administrator. An attempt will be made to restart the session as soon as possible.

HOW SHOULD YOU PREPARE FOR THE HEARING?

Please prepare for the hearing appropriately and give the other participants the same respect as you have previously at face to face Informal Hearings:

- check that you know how to join the hearing by testing the links beforehand;
- remote sessions are specific and targeted, prepare thoroughly in advance of the session;
- ensure that you have appropriate connectivity on the devices that you intend to use;
- decide where you'll sit for the full duration of the hearing. The place should be quiet and private;
- let anybody close by know that you will be in a hearing, so that you are less likely to be interrupted;
- make sure the computer, tablet or mobile telephone you'll use is fully charged or plugged in, so you do not get cut off;
- have any documents you'll need ready beforehand, including the agenda if one has been sent;
- set your mobile phone to silent if you are not using it to access the hearing;
- be ready at least 15 minutes before the session;
- if you are joining by video, if possible, have something plain behind you like a blank wall.

Appendix 1

This Addendum is to be read with in conjunction with the Planning & Water Appeals Commissions' Privacy Notice and our Data Protection & Freedom of Information Policy.

Privacy Notice Addendum

Use of video and audio conferencing technology to conduct hearings remotely and live streaming.

This use of video and audio conferencing technology to conduct hearings remotely has been introduced to reduce the health and safety risk to individuals during the current Covid-19 pandemic and to ensure that their fundamental right to access justice is preserved. The personal data we collect from you to facilitate a remote hearing will include your name, email address or telephone number. The technology is used to facilitate hearings only; it is not used to record or store images and information associated with the proceedings.