



PACWAC COVID-19 TEMPORARY RESPONSE MEASURES

VERSION 9

Date	Author	Detail	Version No.
01/05/2020	CC	For Publication	1.0
21/09/2020	MT	For Publication	2.0
30/03/2021	CC	For Publication	3.0
28/06/2021	MT	For Publication	4.0
29/09/2021	MT	For Publication	5.0
05/01/2022	MT	For Publication	6.0
31/03/2022	MT	For Publication	7.0
30/06/2022	MT	For Publication	8.0
29/07/2022	MT	For Publication	9.0

BACKGROUND

PACWAC is always cognisant of the important public service we provide. In line with existing government advice, as far as possible, we will endeavour to keep casework moving. We are however, live to the exceptional situation that we are currently facing and may have to react to changing circumstances in ways which may not align with normal procedures.

Up to date information and advice in relation to COVID-19 is available on the Public Health Agency's (PHA) website <https://www.publichealth.hscni.net/covid-19-coronavirus>. Please refer to the PHA advice and adhere to the guidelines presented therein in relation to actions to take in relation to COVID-19.

In order to reduce the risk of spreading COVID-19 and keep both the public who interact with us and the Commission workforce safe, the following measures will apply to all cases currently in the system and to all work received by PACWAC up to 29 July 2022. All measures are based on information available at the time of writing and are subject to ongoing review. Please refer to the latest version of this document which will be available on the website.

PARK HOUSE

It is anticipated that the Commissions' new IT system will go live on Monday 8th August 2022 and further information and guidance is available on our website on how to submit evidence electronically using the new system.

Until 8th August 2022, PACWAC will follow normal procedures in respect of requesting evidence in hard copy format and we expect parties to adhere to this established practice and to deadlines set for submission. We will, however, facilitate the submission of evidence electronically where there are no third parties involved in the appeal with the following restrictions:

- It must consist of a single pdf document not exceeding 20MB in file size;
- All pages must be A4 (where large scale drawings are included the evidence should be submitted in hard copy);
- Submissions must be made to our info@pacni.gov.uk address;
- Statements of case should be concise and preferably not exceed 1500 words.

If documentation is submitted electronically which does not comply with the restrictions, it will be rejected and no exchange of evidence will take place. It is the responsibility of the submitting party to ensure that the evidence complies with the aforementioned restrictions.

Where evidence is submitted both electronically as well as by hard copy, both formats must be submitted in time to meet the deadline set for submission.

We do have to be live to the possibility of office closures whether that be down to government advice or shortage of staff. In the future, where the Commission has specified a date for the submission of evidence in relation to casework and the office is closed on that date due to the COVID-19 situation, the submissions shall be regarded as having been received by the submission date if received by PACWAC within five working days of the office reopening (with Day 1 being the first day that the office is open) or there is proof of recorded delivery to show expected delivery on the specified date. It is important to check the website regularly. This provision does not apply to new appeals as the Commission has no power to extend statutory deadlines. New appeals can be submitted electronically through the website or via email during any future office closure.

To ensure continuity of business operations in the event of further office closures or disruption to postal delivery services, we ask that all those interested in an appeal provide a current email address in order that we can issue correspondence electronically if this becomes necessary.

General access to view appeal files in Park House is currently suspended. However, on occasion, it may be possible to facilitate specific requests and contact should be made through the info@pacni.gov.uk address in the first instance.

HEAR AND DECIDE CASEWORK

Written Representations (WR)

These will be dealt with in the normal way. While we do expect issues with delivery timelines we will do our best in the circumstances.

Special care may be required in relation to some site visits which, for example, require access to a dwelling. Where this is the case, individual arrangements will be made by the PACWAC admin team and all PHA advice will be adhered to in relation to the site visit. No interaction should take place with the appointed Commissioner. Where a site visit cannot be carried out in a safe way the appeal will be held in abeyance until it is considered possible to do so.

Accompanied Site Visits (ASV)

Requests for an ASV will not be accommodated. These appeals will be processed based on the written representations (WR) procedure with the Commissioner performing an unaccompanied site visit. Parties will be notified in writing as soon as practical.

The special care provisions for WR will apply.

Hearings

The Commission has undertaken significant work to be able to facilitate remote hearings where possible and are now accommodating physical hearings. This document outlines the additional measures in relation to both types of hearings so that parties can become familiar with the expected processes.

Where an appellant or the planning authority advises the Commission in writing that they wish to change to a WR this will normally be accommodated, subject to any other party who exercised their right to a hearing being agreeable. Such requests must be made in writing, preferably by email to info@pacni.gov.uk. In this instance we will write out to the parties to enable the exchange of evidence and provide time for rebuttals to be prepared and submitted. The Commissioner will undertake an unaccompanied site visit. Hearings may still be necessary, however, in enforcement appeals where there are complex legal issues or significant factual disputes.

We will write to parties who have exercised their right to a hearing to ascertain if they are willing to proceed via a remote hearing. We encourage parties to engage in the remote hearing process as we will be able to make arrangements to progress the case.

In all cases, work should proceed on preparing evidence and we will continue to set deadlines for submission of papers so that we will be able to progress the case at the earliest opportunity. In order to frontload the hearing process (in whatever form) and ensure that we can focus in on key areas of dispute it may be that we will request the submission of rebuttal statements. How an appeal proceeds is a matter for the Commission. If considered necessary, an appointed Commissioner may issue questions to be answered by one or more party to the appeal. These will be exchanged for comment or for information only as deemed appropriate by the appointed Commissioner.

Details in relation to how a remote hearing will progress are contained in the PACWAC remote hearings protocol which is available on the website.

Due to the COVID-19 situation we have introduced a number of additional measures to facilitate physical hearings. For the short term any physical hearings will be accommodated in Park House with an option for parties to give evidence from a remote location. A number of hybrid hearings have been undertaken and feedback has been positive. Further guidance is contained in our Park House Attendance Guide.

Up to date information and advice in relation to COVID-19 is available at <https://www.publichealth.hscni.net/news/covid-19-coronavirus>. If you think you might be at risk of having already contracted COVID-19 you should refer to the PHA advice and adhere to the guidelines presented therein in relation to actions to take. This may mean that you will have to ask someone to attend public proceedings and make representations on your behalf or alternatively place reliance on previous written submissions.

It is expected that we will have to restrict numbers attending hearings due to venue capacity and/or government restriction on numbers. The number of observers in the room may be limited to enable the PHA recommended social distancing between individuals. Parties who have submitted a statement of case will be asked in advance who is expected to attend as participants. Parties are expected to minimise the number of attendees or determine if they could be represented by a single person.

It is intended to facilitate observers at physical hearings. Details of the hearing will be published on our website and individual observers must register their interest in attending a particular hearing with the PACWAC admin team via email at info@pacni.gov.uk, clearly stating the appeal reference number. This should be completed at least 24 hours in advance of the scheduled hearing time. The individual will be entered onto the attendees list up to the capacity of the room. Once the capacity of the room is reached the attendee list will be closed. In these special circumstances no one is to attend a hearing without previously being registered as a participant or an observer. If you are not on the attendee list it may not be possible to accommodate entry to the hearing.

It may be that due to critical individuals becoming ill or needing to self-isolate due to COVID19, arrangements for physical hearings may have to be changed at short notice. This may include the possibility of evidence being given remotely. This will be the preferred option in order to maintain the allocated hearing date. All correspondence requesting an adjournment must be submitted in writing (preferably by email). It should be noted that if the postponement is a necessary step we will try to reschedule at the earliest opportunity. Where we have contact details, the Commission will try to make contact if there has been a change in arrangements.

It should be noted that an initial hearing date, once set, will not be changed unless it is absolutely necessary to do so. If a hearing date does need to be amended the Commission will provide an alternative date.

HEAR AND REPORT CASEWORK

There is no statutory provision for inquiries and hearings to be converted to WR. The Commission will make arrangements for such hearings in due course. Those parties who requested the hearing will be given the opportunity for the case to be conducted remotely. Where a physical hearing is required, the Commission will write to the parties involved to ascertain numbers that are likely to be in attendance.

Work will continue on the initial stages such as requests for evidence etc. so that we will be able to progress cases at the earliest opportunity.

COMPLAINTS

Due to the reduced resources available, timelines for responding to complaint letters are unlikely to be achieved.

UK GDPR

Please be advised that if information is provided to the Commission in regard to a medical condition to justify a course of action in relation to our COVID-19 response, this information will be treated in a sensitive manner and in line with UK GDPR principles.

We hope that these temporary measures will equip all parties to deal with the ongoing situation but we will continue to keep this information under review and will update our response as the situation develops.

Thank you for your co-operation.