



PACWAC HEARINGS PROTOCOL

VERSION 5

Date	Author	Change	Version No.
10/08/2020	SMT	Final for Publication	1.0
12/08/2020	CC	Hear and Decide clarification	2.0
11/06/2021	SMT	General Update	3.0
05/01/2022	SMT	General Update	4.0
01/09/2024	SMT	General Update	5.0

BACKGROUND

This protocol was originally developed to facilitate remote hearing attendance during the COVID pandemic. Presently, there is the opportunity to use new technology to improve the digital experience of attendees at oral hearings. The use of such technology has proved beneficial, and it is important that it is retained as we move forward in order to expedite cases whilst maintaining the integrity of the work of the Commissions. This protocol has been updated to take account of potential options for parties to attend hearings remotely. It does however recognize that hearings in person may be required in some instances.

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 hearing will be planned and conducted in a manner designed to secure the right to a fair hearing. Remote locations are an extension of the hearing and all participants must conduct themselves accordingly. Remote participation has been found to be effective in proceedings which have been short and uncontroversial and the Commission will aim to continue to facilitate remote participation where appropriate. However, where a Commissioner considers that a physical hearing is required, all parties should attend in-person. Circumstances when a Commissioner may deem physical attendance necessary include situations whereby:

- The appeal raises complex legal considerations;
- The appeal raises significant issues of policy interpretation;
- The proposal raises novel issues of development management; and
- Technical and/or other resources are unavailable to aid remote participation at any particular time.

There are four categories of individuals in hearings where remote attendance is facilitated:

- The Administrator – this will be a member of the Commission's administrative staff who will be online to 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 on a hearing efficiently and within a reasonable timeframe, there may be occasions where a hearing will take the form of several sessions. The Commission will provide parties with the necessary technical information and details relating to any forthcoming hearing where remote attendance will be facilitated in advance.

The recording of a hearing is not undertaken by the Commission 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 collect an image whatsoever of any part of the proceedings. This absolute prohibition includes taking a 'screenshot' or 'screengrab' or obtaining other related images of the proceedings.

FIXING THE 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 intend to appear. This will be used to assess whether remote attendance should be facilitated.

In order to frontload the hearing process and ensure that we can focus in on key areas of dispute, rebuttal statements may be requested. This will be at the discretion of the appointed Commissioner.

If remote participation is to be facilitated, the Commissioner may prepare an agenda for circulation one week in advance which will be emailed to the parties setting out the topics to be discussed. Where there are several complex issues to address, it may be that further hearing sessions will have to be organised. The Commissioner will advise parties accordingly.

The date for the hearing will be set by the Commission. 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 Commission's website, www.pacni.gov.uk.

Parties will need to confirm their representatives, including those who will speak and provide details of where the invitation for the remote participation in the 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. Such details should be provided to the Commission within seven calendar days from when the hearing date is issued.

Every remote participant who will be using the technology for the first time should test the electronic link sent by the Commission in advance of the scheduled hearing date and advise us of any technical problems encountered by email or telephone within 24 hours of the link for the hearing being issued. Where the link has been tested successfully and any party fails to join at the specified time, the hearing will proceed in their absence unless contact is made with the Administrator to highlight any new technical issues. It is critically important that parties test any link beforehand and report any technical issues to the Administrator at info@pacni.gov.uk.

Observers can register their interest in joining the hearing session through the info@pacni.gov.uk 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 thereafter.

LIVE STREAMING

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

THE HEARING

A member of the administrative team will host all hearings where remote attendance is being facilitated 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 start 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 only. 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 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 could re-join by audio or by telephone, to limit the effect of any technical issues you may have been experiencing via a different medium.

Speakers on some laptops 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 therefore recommend that participants should use earphones or headphones with a microphone to enhance the quality of communication. If a participant encounters sustained feedback issues, staying logged in by video while simultaneously telephoning into the hearing will provide a suitable 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 hearing where remote attendance is being facilitated the Commissioner will normally:

- Make introductory comments and state general housekeeping matters;
- Summarise the basic protocol to be observed and how the hearing will be conducted;
- Confirm all who are present are those expected to be so (as on the list);
- Confirm the team leaders;
- Set out the agenda, if there is one, and expected timings;
- Confirm all can hear and remind everyone that devices should always be on mute until invited to speak by the Commissioner;
- Clarify the drawings which will form the basis of the decision or recommendation, and
- 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.

The Commissioner will raise the salient issues and invite responses to questions on same. 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 and the complexity of the case. The Commissioner may introduce breaks in the session. There

should 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 the submission of post hearing evidence has been agreed; and
- An indicative timescale for the issue of the decision will be given.

Where for any reason the hearing session where remote attendance is being facilitated comes to an end without any prior warning, please wait email instruction from the Administrator. Attempts will be made to restart the session as soon as possible.

HOW SHOULD YOU PREPARE FOR REMOTE HEARING ATTENDANCE

Please prepare for the hearing appropriately and be respectful of the other participants:

- Check that you know how to join the hearing by testing the links beforehand;
- Prepare your arguments thoroughly in advance of the session;
- Ensure you have appropriate connectivity on the device(s) that you intend to use;
- Decide where you will 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 to be used is fully charged or plugged in;
- Have any documents you will need to refer to 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; and
- If you are joining by video link, if possible, have a plain background behind you like a blank wall.

This document will be subject to review and updated as appropriate. Please ensure you refer to the latest version which will be available on our website www.pacni.gov.uk.

Other guidance is available in [Procedures for Planning and Water Appeals](#).

Appendix 1

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

Privacy Notice Addendum

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

The use of video and audio-conferencing technology to conduct hearings remotely was introduced to reduce the health and safety risk to individuals during the COVID pandemic and to ensure that their fundamental right to access justice was preserved at that time. Due to the benefits arising from such technology, it is now an option for all hearings subject to its suitability. The personal data we collect from you to facilitate remote participation will include your name, email address or telephone number. The technology is used to facilitate hearings only; it is not /will not be used to record or store images and information associated with the proceedings.