

THE PLANNING AND WATER APPEALS COMMISSIONS

Corporate Plan 2015-18

Business Plan 2015-16

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Planning Appeals
Commission

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Water Appeals
Commission

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FOREWORD BY CHIEF COMMISSIONER

This Corporate Plan sets out the Planning and Water Appeals Commission (PACWAC) strategic direction and priorities for the period 2015-18.

The introduction of the Planning Act (Northern Ireland) 2011 and transfer of planning powers to local councils in April 2015 have significant implications for the Commission's workload over the period of this Corporate Plan.

Many of the provisions of the 1991 Planning Order are carried through to the new legislation in respect of development control matters and it is expected that modest improvements in the economy are likely to be reflected in a continued upturn in the number of planning applications submitted to Councils. Refusals of planning permission giving rise to appeals are more difficult to predict but in view of the continued application of regional policies, it is assumed that approval rates will remain fairly constant. The number of appeals arising from refusals over the three year period is therefore likely to increase overall. The introduction in the Planning Act of a costs regime will also result in additional workload for the Commission.

The Department of the Environment retains powers for deciding regionally significant and 'called-in' applications, many of which will involve hearings or public inquiries. The Commission is currently addressing a range of major casework and the Department has informed us of an extensive programme of major planning applications which is likely to result in requests for hearings or inquiries over the period of this plan. In addition, other Departments have alerted us to their likely requirements over the period.

The 2011 Planning Act introduces an entirely new development plan system and early indications are that a number of Councils are aiming to have timetables agreed with DOE for plan preparation by the end of the current financial year. Once produced, public examination of the Plans is likely to require a significant Commissioner resource as the period of this Corporate Plan continues.

Over the period of the Plan there is therefore likely to be a modest but continued increase in appeal work and a significant increase in work referred by government departments in respect of both major proposals and development plans. The Commission, in common with other public bodies, faces significant reductions in budget over the period of this Corporate Plan and its main challenge therefore will be to deliver an efficient and effective service with reduced resources. To this end we remain committed to identifying opportunities for efficiency savings and aim to deliver our statutory functions against a range of business performance standards. Nonetheless, without adequate Commissioner resources and administrative support, the Commission will be unable to deliver the level of service expected of it. There will be a need for careful monitoring to ensure that Commissioner resources are adequate to deliver our functions effectively as the period of the Corporate Plan progresses.

In order to ensure the maintenance of the highest professional standards, we will continue to meet the training needs of our workforce and to comply with the standards required to retain our Investors in People accreditation.

We will continue to provide up to date information for our customers through our website and in publications. We will also engage with them directly through stakeholder events and presentations.

Elaine Kinghan
Chief Commissioner

June 2015

BACKGROUND

The Commissions

The Planning Appeals Commission (PAC) is a tribunal non-departmental public body sponsored by the Office of the First Minister and deputy First Minister (OFMDFM). It is provided for in Section 203 of the Planning Act (Northern Ireland) 2011. The Water Appeals Commission (WAC) is a separate appellate body provided for under Article 292 of the Water and Sewerage Services (Northern Ireland) Order 2006. Although funded by OFMDFM, the Commissions are not part of any Assembly Department. The Chief Commissioner is responsible for the financial, operational and administrative management of the Commissions.

Commissioners are public appointees who have professional qualifications in either town planning or related disciplines. There are currently 18 permanent salaried Commissioners. Commissioners are also members of the WAC.

The Commissions' administrative support is provided by OFMDFM civil servants. There are currently 14 administrative staff.

Our Role

The role of the Commissions is to:

- decide appeals on a wide range of planning and environmental matters arising from decisions of District Councils and Assembly Departments; and
- report to Assembly Departments in respect of planning and environmental issues referred by those Departments.

The Commissions' decisions are subject to the supervision of the Courts.

Corporate Vision and Values

The Commissions' vision is to:

- provide a fair, efficient and effective appellate service to the public;
- apply expertise and experience to information gathered through the process; and
- contribute to the quality of our environment by making the best possible decisions.

We aim at all times to demonstrate the following corporate values in the exercise of our work.

Impartiality	to approach our work with an open mind without pre-disposition to any particular view
Integrity	to interact with our customers with the highest degree of honesty and trustworthiness
Openness	to undertake our work in a transparent manner
Fairness	to treat everyone equally
Professionalism	to conduct our business to the highest standards
Quality	to deliver a high quality service to the public
Valuing workforce	to train and support our workforce, enabling them to develop their knowledge and skills
Customer Care	to ensure that we meet the needs of those who come into contact with us in a timely, courteous and professional manner

STRATEGIC CONTEXT

This Plan has been developed in the context of the need to ensure that the Commission provides an efficient, effective and professional service to those who come into contact with it.

Corporate Planning 2015-18

This Plan has been developed with the aims of:

- delivering a more efficient service to our customers in relation to PACWAC's statutory functions; and
- improving the quality of the service we provide.

Corporate Governance

As a tribunal non-departmental public body, the Commissions operate under a Memorandum of Understanding with the sponsor department, OFMDFM. The Memorandum sets out the relationship between OFMDFM and the Commissions and defines the financial and administrative framework within which the Commissions operate. A copy of the Memorandum of Understanding can be found on our website (www.pacni.gov.uk).

The Commissions' Management Board will regularly review progress against the Corporate Plan which will include ongoing monitoring of performance and corporate risks.

Delivering the Plan

The Commission will publish annual Business Plans for each of the three financial years of this Corporate Plan. The Business Plan for 2015-16 is attached at Annex 1. Progress against the Business Plan will be reviewed throughout the year. We will publish an Annual Report setting out our performance.

Resources

The Commissions are funded on an annual basis through OFMDFM. OFMDFM have approved a baseline budget of £1,985,000 for the 2015/16 financial year. The net income from appeal fees and deemed application fees arising from enforcement appeals contributes to this figure.

STRATEGIC OBJECTIVES

Our Corporate aim is to make the best possible appeal decisions and offer the best possible advice to Departments, consistent with the evidential context within which appellate functions are exercised.

In pursuance of this aim the Commissions' objectives are:

- to provide an efficient, effective and professional service compatible with available resources;
- to deliver high quality services that meet the needs of our customers;
- to develop and lead our workforce to achieve our business objectives; and
- to deliver our services with the objective of achieving value for money.

We will identify the priorities to achieve our objectives in our Business Plans. They will be achieved by the setting of delivery targets and will be reported on in our Annual Reports.

Objective 1

To provide an efficient, effective and professional service compatible with available resources we shall:

- deliver our business within allocated resources;
- achieve our performance measures and targets;
- continue to review our business processes to maximise efficiency; and
- participate to the greatest extent possible to ensure that the necessary arrangements are in place to secure a smooth transition to the Department of Justice.

Objective 2

To deliver high quality services that meet the needs of our customers we shall:

- continue to provide clear, accessible and up to date information and guidance to our customers;
- report on our performance on an annual basis;
- provide up to date information on the Commission's website;
- investigate and respond to complaints about our service in accordance with our published procedures;

- continue meetings with stakeholders to discuss the way we deliver our services; and
- continue to provide presentations to Assembly Departments and Committees, Councils and public representatives, professional bodies and other organisations as requested.

Objective 3

To develop and lead our workforce to achieve our business objectives we shall:

- maximise business performance through the effective management, training and development of staff;
- maintain continuous professional development for all staff to ensure that we meet the necessary standards to retain recognition as an Investors in People organisation; and
- facilitate continuous professional development for Commissioners to assist them in meeting the requirements for membership of their relevant professional bodies.

Objective 4

To deliver our services with the objective of achieving value for money we shall:

- comply with relevant finance, audit and statutory requirements;
- ensure effective management of property assets in accordance with the objectives of the NI Executive's Asset Management Strategy; and
- deliver effective corporate governance.

WORKLOAD FORECAST

1. Planning and Related Appeals

The number of appeals received by the Commissions over the past five financial years was as follows:-

Year	2010/11	2011/12	2012/13	2013/14	2014/15	Average
Planning *	305	330	322	265	275	299
Enforcement #	116	115	71	58	60	84
Environmental ~	10	1	10	5	4	6
Roads	4	5	3	1	6	4
All PAC appeals	435	451	406	329	345	393
WAC appeals	5	2	5	3	5	4
Total appeals	440	453	411	332	350	397

* Planning appeals include appeals relating to listed buildings, Conservation Areas, advertisements, planning agreements and certificates of alternative development.

Enforcement appeals include appeals relating to submission notices and lawful development certificates.

~ Environmental appeals include appeals relating to industrial pollution, waste management and Areas of Special Scientific Interest.

The period from 2010 to the present covers the aftermath of the economic recession which began in 2008/09. The intake of appeals was relatively stable over this period, although the last two years were below the average for the period as a whole.

Future appeal workload

The predicted intake of appeals in the next 3 years should take account of the following factors:-

- (i) According to the latest Economic Outlook report from PricewaterhouseCoopers, Northern Ireland continues to enjoy new job creation and falling unemployment and its domestic property market has shown modest growth. Nonetheless, recovery is slower than expected and lags behind the rest of the UK.
- (ii) The great majority of planning appeals (92% over the period since 2010) are against the refusal of planning permission. The latest development management statistics from the Department of the Environment indicate a 27% increase in the number of refusals in 2014-15 compared with 2013-14. In view of the relationship between refusals of planning permission and appeals, there is likely to be an increase in planning appeals in the coming year.
- (iii) The signs of improvement in the economy are reflected in an increase of 11% in planning applications submitted during 2014-15. Housing applications have increased by 16% and housing starts by 13%. If this trend continues and refusals of planning permission are maintained at past levels, there is likely to be an increase in the number of appeals over the period of the Plan.

- (iv) It is difficult to predict how appeal workload will be affected by the transfer of planning powers to local planning authorities, which took place on 1st April 2015. Current planning policy will remain place in the short term but it is too soon to say whether the Councils will be more or less inclined to refuse planning permission than the Department was. Trends will need to be carefully monitored and assumptions reviewed in the light of experience.
- (v) Experience in other jurisdictions suggests that the provision in the 2011 Planning Act to reduce the time to lodge an appeal from 6 months to 4 months could result in an increase in the number of appeals, at least in the short term.
- (vi) In the absence of information about the number of enforcement notices served by DOE, it is difficult to make predictions about the number of enforcement appeals likely to come before the Commission. Statistics indicating an 8% decrease in the number of live enforcement cases during 2014-15 suggest that there may be a decrease in enforcement appeals in the coming year. Again it is too soon to say whether Councils are likely to be more or less active in pursuing breaches of planning control. The working assumption is therefore made that there is likely to be a slight decrease in the number of enforcement cases until 2017/18.
- (vii) The provision in the 2011 Planning Act for the award of costs empowers the PAC to make orders as to the costs of the parties in planning appeals. This provision does not apply to appeals against Departmental decisions made before that date. Based on experience elsewhere, it is possible that 20% of appeals where a hearing is held and 4% of appeals considered by exchange of written representations will attract a costs claim. At present nearly 40% of appeals involve hearings. In line with practice in other UK jurisdictions, the PAC will make separate decisions on appeals and related costs claims. Costs claims will therefore be counted separately for workload forecasting purposes.
- (viii) Given the small numbers of environmental, roads and water appeals, it is a reasonable working assumption that these appeals will continue around the five-year average levels.

Taking the above factors into account, the breakdown of appeals (including costs claims) over the Corporate Plan period is projected to be as follows:-

Year	2015/16	2016/17	2017/18
Planning	330	350	370
Enforcement	55	55	55
Costs	20	40	45
Environmental	6	6	6
Roads	4	4	4
All PAC appeals	415	455	480
WAC appeals	5	5	5
Total	420	450	485

In terms of Commissioner resources, it will take between 10.5 and 12.1 Commissioner years to do this work each year over the Corporate Plan period.

2. Referred Workload

(a) Major Proposals

In addition to determining appeals, the Commissions also conduct public inquiries and hearings and report with recommendations to government departments on a wide variety of projects. Hear-and-report cases are referred to the Commissions by the departments concerned. Some arise from requests from developers following receipt of the department's opinion and others from the departments themselves. The final decisions on these cases are taken by the departments.

The PAC is currently processing 4 major proposals involving 4 Commissioners. It expects to re-open a public inquiry into the proposed North/South electricity interconnector during the current financial year. This is likely to involve at least two Commissioners.

The PAC has also been advised by Department of the Environment of 11 current regionally significant planning applications in respect of which a public inquiry or hearing may be required. Experience suggests that about half of these schemes may go to inquiry or hearing, in view of the limited information available it is difficult to predict timescales but for the purposes of business planning it is assumed that the Commission will be asked to programme one in 2015/16, three in 2016/17 and one in 2017/18 and that each scheme will be dealt with by a single Commissioner.

DOE has made the PAC aware of four other planning applications that could potentially be determined to be regionally significant. On the assumption that two of these could go to public inquiry or hearing, it is unlikely that they will be referred to the Commission before 2016-17. It is assumed that one might go to inquiry or hearing in 2016-17 and one in 2017-18. It is also likely that further major applications will come before the Department and result in requests to the Commission for hearings or inquiries over the period 2016-18.

The Department for Social Development has indicated that it is likely to ask the Commission to conduct a public inquiry into a development scheme and the associated vesting of land in the current financial year. This inquiry is likely to involve one Commissioner. There is the potential for a request from DSD to hold an inquiry into a further development scheme but this is unlikely to be in the current financial year.

The Commission has also been asked by the Department for Regional Development to hold a public inquiry into a major road scheme and associated vesting of land. This is likely to take place in the financial year 2016/17 and will involve at least four Commissioners.

As well as dealing with major casework referred to it by departments, the PAC has over the past five years processed 16 requests for hearings from developers, 12 of which have related to the need for an environmental statement. It is reasonable to expect an average of three such requests per year over the Corporate Plan period.

The predicted number of inquiries or hearings in each year and the deployment of Commissioner resources on major casework over the period of the Corporate Plan is illustrated in the following table:

Year	Inquiries/Hearings Opening	Inquiries/Hearings Ongoing	Number of Commissioners	Commissioner Resources (years)
2015/16	9	12	11	3.5
2016/17	11	14	14	6.3
2017/18	10	11	10	2.8

(b) Local Development Plans

The Planning Act (Northern Ireland) 2011 introduced an entirely new system of local development plans (LDPs), which are to be prepared by the 11 new councils. They are to consist of two separate documents and Councils are required to submit each of their LDP documents to DOE for independent examination. Examinations will be conducted by the PAC unless the Department considers that it is not expedient to do so having regard to the timetable prepared by the Council. It is possible therefore that the PAC will be asked to conduct all 22 examinations.

As no council has to date produced a draft timetable, it is very difficult to predict how quickly LDP documents will come forward for examination. Assumptions have therefore been made taking into account DOE's recently published Practice Notes which indicate very ambitiously that councils could prepare both LDP documents in 40 months. Allowing for the fact that some Councils have up to date plans in place and Councils will work at different speeds in preparing their plans, a possible scenario is illustrated below. Assumptions will be reviewed in the light of experience.

On the assumption that each examination will involve two Commissioners, the possible number of examinations in each year and the deployment of Commissioner resources on examinations over the period of the Corporate Plan is presented in the following table:-

Year	Examinations Opening	Examinations Ongoing	Number of Commissioners	Commissioner Resources (years)
2015/16	0	0	0	0
2016/17	3	3	6	2.8
2017/18	5	7	14	6.3

3. Commissioner Resources

There are currently 16 full-time Commissioners and two part time Commissioners. The total complement therefore equates to 17 full-time Commissioners. Of these, 14.25 full time equivalent Commissioners are engaged on casework and the remainder have management responsibilities equating to around 2.75 Commissioner years thereby limiting their availability for casework.

The following table draws together the resource forecasts for appeals, major casework and LDP examinations over the period of the Corporate Plan:-

Year	2015/16	2016/17	2017/18
Appeals	10.5	11.3	12.1
Major casework	3.5	6.3	2.8
LDP examinations	0	2.8	6.3
Commissioner resource requirement	14.0	20.4	21.2

The data set out above appears to demonstrate that in the current financial year Commissioner resources are adequate to address the predicted workload. However, the loss of two members of the senior management team in 2014-15 has resulted in pressures at management level with associated impacts on the allocation of complex casework. Notwithstanding current budgetary constraints, there is a need to restore the senior management structure of the Commission as a matter of urgency in order to facilitate the delivery of an effective service to the public.

The projected increases in appeals, major casework and development plan examinations are likely to pose considerable challenges to the efficient delivery of decisions and advice to departments over the period of this Corporate Plan and additional Commissioner resources are likely to be required if effective service delivery is to be maintained. The workload forecasts are also likely to have implications for administrative support staff. Actual workload will be closely monitored against the forecasts in this Plan to ensure that resources are used as efficiently as possible and any shortfall in resources is identified at an early stage.

ANNEX 1 - BUSINESS PLAN 2015-16

To provide an efficient, effective and professional service compatible with available resources we shall:

- meet our business performance standards (set out in **Appendix A**);
- allocate work to Commissioners to ensure the appropriate balance between appeal and referred caseload;
- ensure that appropriate resources, where available, are allocated to schemes with potential for economic growth and job creation;
- resolve outstanding issues arising from the introduction of our new case management system;
- seek to further enhance our case management system to better meet the needs of our business;
- continue our efforts to secure the necessary budget to fill vacant Commissioner posts at management level; and
- ensure that work processes are not adversely affected by change of sponsorship to Department of Justice.

To deliver high quality services that meet the needs of our customers we shall:

- ensure the availability of a wide range of up to date information on the Commission website;
- undertake a review of hearing venues to reinforce the independent status of the Commissions;
- update written advice and guidance to reflect the transfer of planning powers to local authorities;
- engage with stakeholders to improve the exchange of information between the Commissions and parties to appeal; and
- publish our Annual Report by September 2016.

To develop and lead our workforce to achieve our business objectives we shall:

- develop a training programme for both administrative and professional staff;
- provide training for staff on changes arising from the new development plans regime;
- ensure training is focused to meet the requirements of Investors in People;

- complete proposals to ensure a full range of HR services is available to Commissioners;
- review and refine health and safety policies for Commissioners; and
- keep staff appraised of progress in relation the change of sponsorship to Department of Justice as part of the rationalisation of Assembly departments.

To deliver our services with the objective of achieving value for money we shall:

- review our processes and identify savings in general administrative expenditure to meet a reduced budget;
- complete the review of our accommodation needs in view of the lease expiry in Park House;
- participate in the NICS voluntary exit scheme with a view to reducing salary costs;
- liaise with our sponsor branch to ensure full implementation of the recommendations of the administrative staff review; and
- manage our budget to ensure that public money is used effectively.

APPENDIX 1 - PERFORMANCE STANDARDS 2015-16

The Commissions' performance measures and targets have been set to ensure that they remain challenging, measurable and focused on the priorities of the users of the Commissions' services.

Appeals

- To decide 80% of appeals* within specified periods as follows:
 - informal hearings within 30 weeks;
 - written representations with an accompanied site visit within 28 weeks;
 - written representations within 26 weeks; and
 - enforcement related appeals within 34 weeks.

*excluding delays caused by the appellant and developments involving Environmental Impact Assessment.

Major Casework

- In 80% of hear-and-report cases, to conduct a pre-inquiry or pre-hearing meeting within 16 weeks of the receipt of all relevant documents from the Department, or where no such meeting is held, to open the public inquiry or hearing within 24 weeks of the receipt of those documents.
- To deliver 100% of all reports on hear-and-report cases to the Department by the indicative date announced at the end of the public proceedings.

Quality

- To ensure that the number of appeal decisions giving rise to a justified complaint or a successful judicial review challenge in 2014/15 and 2015/16 amounts to no more than 1.5% of the total number of appeal decisions issued in that two-year period.