

Guidance on Appeals and Applications made to the Welsh Ministers

Guidance to: appointed persons determining applications to vary or cancel a notice requiring an owner to carry out operations and applications for the reimbursement of an owner's expenditure where a notice to carry out operations is cancelled under the Disused Mine and Quarry Tips (Wales) Act 2025 and the Disused Mine and Quarry Tips (Appeals and Reimbursement of Expenses) (Wales) Regulations 2027

Issued by: Welsh Ministers

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Introduction

1. The Disused Mine and Quarry Tips (Wales) Act 2025 (the Act) was passed by the Senedd in September 2025 and will come into effect, in its entirety, on 1 April 2027. The Act addresses a long-standing legacy of the industrial past in Wales by creating a modern regime to keep communities safe from threats posed by disused coal and non-coal tips.
2. The Act introduces a consistent approach to assessing, registering and monitoring disused tips across Wales. It replaces, in Wales, [Mines And Quarries \(Tips\) Act 1969](#) and establishes a new organisation - the Disused Tips Authority for Wales (the Authority) - to oversee and implement the new regime. Under section 35 of the Act, the Authority can issue a notice requiring a landowner to carry out operations (referred to as a section 35 notice). A section 35 notice may be issued where the Authority considers this to be necessary to prevent or deal with threats to the stability of a disused tip, to stabilise a disused tip or to prevent a disused tip from becoming more unstable, so as to avoid or reduce threats to human welfare. The Act provides a right for landowners and interested parties to apply to the Welsh Ministers to vary or cancel a section 35 notice (under section 38). Where the Authority has cancelled a section 35 notice and the landowner has incurred costs in complying with it, under the Act the landowner may claim reimbursement of expenses (under section 43).
3. To make sure decisions about applications are fair and transparent, the Act requires the Welsh Ministers to set out in regulations the procedure to be followed in determining such applications.

Purpose of the guidance

4. This guidance is directed to the person appointed by the Welsh Ministers (the appointed person) to determine applications made under sections 38 and 43 of the Act. It summarises the legislative framework and provides practical guidance on applying the procedures set out in the Disused Mine and Quarry Tips (Appeals and Reimbursement of Expenses) (Wales) Regulations 2027 (the Regulations). This guidance should be read in conjunction with the Act and the Regulations.

Scope of the regulations

5. The Regulations establish a clear, transparent and proportionate procedure for determining applications made to the Welsh Ministers under sections 38 and 43 of the Act. Their purpose is to ensure that persons affected by decisions made by the Authority under sections 35 and 42 of the Act have clear routes to seek fair consideration of their appeal. The Regulations set out the procedure for determining applications under section 38 of the Act to vary or cancel a section 35 notice, which requires a landowner to carry out operations to address the stability of a disused tip. An interested party who is given a copy of a section 35 notice may also apply to the Welsh Ministers to vary or cancel the notice, and any such application will also be subject to the procedure set out in the Regulations. The Regulations also provide for the determination of applications for reimbursement of expenses under section 43 of the Act where a section 35 notice has been cancelled by the Authority (under section 42).

6. The Regulations set out the process for determination, from the submission of an application through to determination and notification of the decision. They specify the information that form part of an application, the time limits for representations and comments and the procedures by which appeals may be determined. These are: written representations, hearings, inquiries or a combination of these. The Regulations also make provision for associated procedural matters such as the exchange of documents, electronic communications, site visits and the power for the appointed person to control proceedings where necessary to ensure fairness and order. The Regulations are made by the Welsh Ministers under sections 40(1), (2), (3) and (4) and 43(7), (8) and (9) of the Act, come into force on 1 April 2027 and apply in relation to Wales.

The role of the Welsh Ministers

7. Under the Act, the Welsh Ministers are responsible for establishing the procedure to be followed in determining applications made under sections 38 and 43 and appointing a person to determine those applications. Applications are made to the Welsh Ministers, and determined by an appointed person. Determinations must proceed lawfully in accordance with the Regulations. The Welsh Ministers are able to revoke an appointed person's appointment in certain circumstances, and where this is the case are responsible for appointing another person to determine an application.

The role of the Authority

8. The Authority is responsible for issuing section 35 notices, and may also issue a notice of cancellation. The Regulations make provision in respect of representations that the Authority may make and the submission of documents in the determination of appeals, setting out the relevant time limits. The Authority must comply with any direction issued by the appointed person during a pre-inquiry meeting, which is designed to ensure that the appeal process operates fairly, transparently and in accordance with the statutory procedures.

The role of the appointed person

9. The Act requires applications under sections 38 and 43 to be determined by an appointed person. The Act does not specify who this must be, allowing flexibility in how the system is administered. In most cases, Planning and Environment Decisions Wales (PEDW) will act as the appointed person and manage the process on behalf of the Welsh Ministers, but the Welsh Ministers retain responsibility as regards who to appoint and may appoint someone other than PEDW.
10. The appointed person is responsible for determining applications made under sections 38 and 43 of the Act. This includes selecting the appropriate procedure (written representations, hearing, inquiry or a combination), having had regard to guidance given to the appointed person by the Welsh Ministers and having considered any views of the applicant, as set out in the application. The appointed person is also responsible for setting timetables, issuing directions and ensuring the efficient progression of the appeal. The appointed person may vary the chosen procedure before the application is determined where necessary.

11. The appointed person also controls the conduct of hearings and inquiries. Their powers include requiring the exchange of information, excluding late, irrelevant or repetitious material, and managing participation where behaviour disrupts the process. Site inspections may be carried out where needed to inform the determination.
12. Ultimately, the appointed person must ensure that decisions are reasoned and transparent. They are expected to take all reasonable steps to determine applications promptly and in accordance with the Regulations, providing an independent safeguard within the regulatory system.

Relevant provisions of the Disused Mine and Quarry Tips (Wales) Act 2025

Section 35: Notice Requiring Owner of Land to Carry Out Operations

13. This gives the Authority the power to require a landowner to carry out specific operations on their land. The purpose of these operations is to:
 - prevent or deal with threats to the stability of a disused tip, or
 - stabilise a disused tip or prevent a disused tip from becoming more unstable,so as to avoid or reduce threats to human welfare.
14. The notice must clearly identify the tip concerned, describe the operations that need to be carried out and explain the threat to human welfare that the operations aim to address. It must also set a deadline for completing the operations, which cannot be sooner than 21 days after the notice is given to the owner. Information about notices will be included in guidance the Welsh Ministers will issue to the Authority. There will be a consultation on the guidance to the Authority later this year.

Section 37: Duty to Give Interested Parties Copies of a Notice

15. Section 37 requires the Authority to give a copy of a section 35 notice to interested parties as defined in the Act. This includes, where appropriate, a person who had an estate or interest in the land at any time in the 12 years before the day on which the section 35 notice was issued to the landowner. The Authority must give the required copies within seven days of giving the notice to the landowner.

Section 38: Right of Owner and Interested Parties to Appeal Against a Notice

16. This gives landowners and interested parties the right to apply to vary or cancel a notice issued under section 35 of the Act. If an owner receives a notice requiring operations on their land, or if an interested person has been given a copy of that notice, a party can apply to the Welsh Ministers to have the notice varied or cancelled. The application must be made within 21 days of the notice being given to the owner.
17. An application under this section may be made on one or more grounds that are set out in section 38(3). These are:

- that there is no reasonable ground for believing that the operations required by the notice are necessary to avoid or reduce the threat to human welfare specified in the notice;
- that the operations required by the notice are more extensive than is necessary to avoid or reduce the threat to human welfare specified in the notice;
- that
 - I. the threat to human welfare specified in the notice could be avoided, or reduced to at least the same extent, by carrying out different operations, in whole or in part, from the operations required by the notice, and
 - II. the owner is prepared to carry out the alternative operations;
- that
 - I. the owner or another person has already started, or has entered into a contract with a third party to start, operations different, in whole or in part, from the operations required by the notice, and
 - II. the alternative operations will avoid, or reduce to at least the same extent, the threat to human welfare specified in the notice;
- that the period within which the operations required by the notice must be carried out is not reasonably sufficient;
- that there is a material defect or error in, or in connection with, the notice.

18. An owner of land who is given a notice under section 35 may also make an application under section 38 on the ground that the owner is unable to meet the costs of the operations required by the notice.

19. Under section 38 the Welsh Ministers are required to notify the Authority and each person who was given the notice or a copy of it, that an application has been received to vary or cancel the notice.

Section 39: Determination of Appeals

20. Section 39 sets out how applications made under section 38 must be determined. Applications are decided by an appointed person, who may vary or cancel the original notice if satisfied that the grounds of appeal are met. Where an application under section 38 is made and is being determined, the period specified in the section 35 notice as the period within which operations must be completed, does not expire before the application is determined. This means that the person who has been given a section 35 notice cannot be guilty of an offence for failing to comply with the notice whilst the application is being determined. The appointed person also may extend the time for completing operations where appropriate. This can be done whether the grounds for an application are made out or not. Once the appointed person has determined the application, the Welsh Ministers are required to notify the Authority and every person who received the original notice or a copy of it of the outcome.

Section 40 Supplementary Provision about Appeals

21. Section 40 requires the Welsh Ministers to make regulations about the procedure for determining applications made under section 38. Regulations may allow the appointed person to decide whether an application should proceed by written representations, a hearing or an inquiry. Welsh Ministers may also make regulations on other matters connected with the determination of applications. Regulations may, therefore, address matters such as preliminary or consequential steps and may include powers, for example, to enter land where necessary to ensure a fair determination. Regulations may address both procedural and non-procedural matters, may confer discretion on a person and may create offences in connection with failures to comply with requirements imposed by or under those regulations.

Section 43: Reimbursement of Owner's Expenses on Cancellation of a Notice

22. Section 43 applies where the Authority has cancelled a section 35 notice and the owner has incurred expenditure in complying with that notice. The owner may apply to the Welsh Ministers for reimbursement by the Authority for (a) any expenditure incurred as a consequence of the notice being given and (b) any expenditure attributable to the cancellation itself, such as reinstatement costs or expenses arising from the cancellation of contracts. The appointed person must have regard to all the circumstances of the case, including specifically the two matters set out in section 43(5)(a) (the grounds on which the Authority gave the notice of cancellation), and (b) (whether the Authority has given or intends to give a further section 35 notice or intends to carry out the operations itself). Where the appointed person directs the Authority to reimburse all or part of the expenditure, the Authority must comply with that direction. This section places the Welsh Ministers under a duty to make regulations setting out the procedure for determining applications under section 43 and provides the Welsh Ministers with the power to make regulations dealing with other matters connected to how such applications are determined.

Applications under Section 38 of the Act

23. Section 38 allows those given a section 35 notice and those given a copy of a section 35 notice to apply for the notice to be varied or cancelled. Applications must be made within 21 days of the notice being given and must include the information and supporting documents set out in the Regulations. The Act specifies the grounds on which an application may be made, and these are explained in the following sections.

Contents of an Application

24. An application to cancel or vary a section 35 notice must be submitted to the Welsh Ministers. The application must be made on the form provided by the Welsh Ministers for the purpose of appealing a section 35 notice. It must include:
- the applicant's contact details, including name, postal address, email address, and telephone number;
 - the contact details of any agent acting on their behalf;
 - the grounds for the appeal on which the applicant relies;

- a statement as to whether the applicant wishes the appeal to be determined by written representations, a hearing, or an inquiry, along with reasons for that preference;
 - a list of all supporting documents, with dates where applicable;
 - a copy of the section 35 notice being appealed and copies of all documents the applicant intends to rely on;
 - the location of the land to which the section 35 notice relates;
 - the name or names by which the land is commonly known;
 - details of the applicant's interest in the land; and
25. The appointed person must first determine whether the application satisfies the requirements of the Regulations before selecting the procedure and triggering the start date.

Determination of Applications

26. Upon receipt of an application to vary or cancel a section 35 notice, the Welsh Ministers will appoint a person to determine the application.

Decision as to the Procedure and Start Date for section 38 applications

27. Once an application under section 38 satisfies the requirements in the Regulations in respect of the information and documentation provided (regulation [5]), the appointed person must decide how the application will be determined, choosing between written representations, a hearing, an inquiry or a combination of these procedures. The appointed person must notify both the applicant and the Authority of the procedure selected. The chosen procedure will influence the timetable for the application and determine the steps that each party must follow.
28. In addition, at the same time as notifying the Authority of the decision regarding the procedure, the appointed person must also send the Authority a copy of the application and all accompanying documents submitted by the applicant.
29. The day after this notification is given is known as the start date of the application.

Changing the Procedure

30. The appointed person may change the chosen procedure at any point before the application is determined. Whether a change in procedure is appropriate will depend on the specific circumstances. For instance, a case that begins under the written representation procedure may be moved to a hearing or inquiry if the appointed person considers that further examination is necessary.
31. For example, an owner might appeal against a section 35 notice and request that the application be dealt with by written representations. The appeal grounds in the application state that the tip does not present a risk and that the operations required by the notice go beyond what is necessary.
32. When reviewing the written submissions, the appointed person notes that there is a significant dispute between the owner and the Authority about the nature and severity of the risk to human welfare. The parties also disagree on whether the

specific operations required under the section 35 notice are necessary to avoid or reduce that risk, with each side relying on technical assessments that support the different arguments.

33. The appointed person considers that these issues cannot be properly resolved based on written evidence alone. As further examination is necessary, the appointed person decides to change the procedure from written representations to a hearing for more detailed scrutiny of the evidence. The parties are notified of the change, and the appeal continues under the hearing procedure. The start date does not change.

Sharing of information

34. The Authority must, within 2 weeks of the start date, provide the appointed person with the contact details of everyone who received a copy of the section 35 notice under section 37 of the Act (interested parties). This information is supplied so the appointed person can carry out their functions.

Representations and Comments

35. This section sets out the steps and time limits for representations and comments. All time limits run from the start date.
36. Where the application is determined by written representations:
 - The Authority must, within 4 weeks from the start date, send any representations and documents that it wishes to rely on, to the appointed person.
 - The applicant may send any additional representations or documents to the appointed person within 4 weeks of the start date.
 - The appointed person must, as soon as reasonably practicable following receipt of the written representations and documents provided by the Authority, send these to the applicant. The appointed person must also send a copy of any additional representations or documents provided by the applicant, to the Authority.
 - The appointed person must, as soon as reasonably practicable after receiving any other representations in relation to the appeal, send copies of any these to both parties.
 - The applicant and the Authority may send comments on those representations or statements to the appointed person within 6 weeks beginning with the start date.
 - As soon as practicable after the 6-week period ends, the appointed person must send a copy of the Authority's comments to the applicant, and a copy of the applicant's comments to the Authority.
37. Where the application is determined by a hearing or inquiry:
 - The applicant and the Authority must each, within 4 weeks from the start date, send the appointed person a statement containing full particulars of the case they propose to put forward and a list of documents they propose to refer to or put in evidence.

- As soon as reasonably practicable, the appointed person must exchange those statements and document lists between the parties.
 - The applicant and the Authority may send comments on those representations or statements to the appointed person within 6 weeks beginning with the start date. The appointed person must send a copy of the Authority's comments to the applicant, and a copy of the applicant's comments to the Authority as soon as practicable after that period.
38. The appointed person is responsible for managing the appeal timetable. Where the Regulations require a step to be taken "as soon as practicable", this should be done without unnecessary delay. When sending representations, statements or comments, the expectation is that this is done at the same time (for example, if the appointed person receives representations from the Authority on day 12 and representations from the applicant on day 16, the appointed person should aim to send those representations to the Authority and applicant (as appropriate) after receipt of the documents on day 16. Where it is confirmed that the applicant doesn't intend to make additional representations, the appointed person should aim to forward any representations etc made by the Authority to the applicant as soon as practicable following receipt). It is expected the appointed person will keep clear and proportionate records of key dates, documents received and when material is issued (see Annex 1 for a table of deadlines under this section of the guidance).

Hearings and Inquiries

39. This section explains how hearings and inquiries are arranged and managed by the appointed person. It sets out what the appointed person must do when setting dates, notifying parties, and making arrangements to ensure the process is fair, accessible and effective. It also explains the options for holding hearings in person or remotely, the circumstances in which decisions may be made on written material only and when a pre-inquiry meeting may be needed to help organise and manage an inquiry.

When a Hearing Is Appropriate

40. A hearing is appropriate where the issues can be resolved through an oral, inquisitorial discussion led by the appointed person. Hearings allow the appointed person to ask questions, clarify points, and explore the evidence with the parties, but generally do not permit cross-examination.
41. Hearings are best suited to appeals where facts are not significantly disputed, where expert evidence is not in conflict, or where the matters in issue relate to interpretation, proportionality, procedure, or the reasonableness of the section 35 notice. In these cases, clarification rather than formal testing of evidence is what is needed. The appointed person retains full control of the hearing and may question either party to address gaps or uncertainties in the material before them.

When an Inquiry is Required

42. An inquiry is required when the appointed person decides that cross-examination is necessary to ensure a fair and thorough examination of the main issues.

Cross-examination cannot generally take place at a hearing, so any case requiring evidence to be formally tested must proceed by inquiry.

43. Circumstances that typically demand an inquiry include conflicting technical or expert evidence, serious factual disputes where credibility matters. An inquiry's more structured process, including statements of agreed facts and proofs of evidence, provides the opportunity to examine competing accounts and methodologies in depth.

Establishing the Hearing or Inquiry

44. The appointed person must set the hearing or inquiry date (the relevant date) and must give at least 4 weeks' notice to the applicant, the Authority, and anyone who was given a copy of the section 35 notice under section 37 of the Act (interested parties). The Authority is expected to seek the views of the parties when setting the relevant date, to try and set a date that is convenient for those involved. It is recognised that this might not always be possible. The Authority must publish notice of the hearing or inquiry at least 2 weeks before it takes place, using a method that the Authority considers to be most effective in terms of bringing it to the attention of people who are likely to be interested.
45. If the hearing or inquiry date changes, the notification steps must be repeated. When arranging the hearing or inquiry, consideration will need to be given to accessibility needs and, where appropriate, providing documents in alternative formats, such as by post, electronically or in braille.
46. The appointed person has discretion to decide which matters are most appropriately considered at a hearing or inquiry and which can be dealt with through written representations. Where a mixed procedure is used, the appointed person should identify the issues that require oral discussion and make these clear to the parties at an early stage. Providing this clarity helps ensure that the use of different procedures is proportionate and supports a fair and efficient examination of the appeal.
47. The appointed person is expected to issue a short list of topics for hearing sessions when confirming the procedure. This should reflect their assessment of the issues raised in the appeal, including any areas of dispute or technical complexity, and should focus hearings on matters where oral discussion will genuinely assist in reaching a well-informed determination. Clear communication of these topics will support the applicant, the Authority and any other participants to prepare effectively and contribute to a well-organised and purposeful application process.

Hearings

48. Hearings give the appointed person a flexible forum to ensure that issues that cannot be fully addressed in writing can be explored, tested fairly and transparently.
49. The appointed person can choose in-person, remote, or hybrid formats. Where appropriate, the appointed person can proceed on written material if a party cannot attend, adjourn to resolve issues (including technical ones) or hold all or part of the hearing in private.
50. The appointed person must set a date for the hearing and give at least four weeks' notice of that date to the applicant, the Authority and any person who was given a copy of the section 35 notice under section 37 of the Act (interested parties). If the

appointed person changes a hearing date, this triggers the appropriate person's duty to notify the parties, and give at least 4 weeks notice of the new date. publish a notice of the hearing at least two weeks before it takes place. If the appointed person changes the hearing date, they must repeat the notice and publication steps.

51. The appointed person must set the date for a hearing (referred to in the Regulations as "the relevant date"). Once the relevant date has been set, the Regulations require two separate forms of notice:

Notice by the appointed person (minimum 4 weeks)

52. The appointed person must give notice of the relevant date at least 4 weeks before the hearing takes place. Notice must be given to:
 - the applicant;
 - the Authority; and
 - any person who was given a copy of the section 35 notice under section 37 of the Act.

Publication of Notice by the Authority (minimum 2 weeks)

53. The Authority must publish notice of the hearing or inquiry at least 2 weeks before the relevant date. Publication must be in such manner as the Authority thinks will be most effective to bring the hearing or inquiry to the attention of persons likely to be interested in it.
54. If the appointed person changes the relevant date, the notification steps above must be repeated. This means:
 - the appointed person must give fresh notice of the new relevant date, ensuring the minimum 4-week notice period is met; and
 - the Authority must publish notice of the new relevant date, ensuring the minimum 2-week publication period is met.
55. Any earlier notices that related to the original date do not remove the need to meet the minimum notice requirements for the revised date.
56. The example below illustrates how the minimum notice periods operate where the hearing date is changed after the initial notice has been issued.

Original hearing date and notices

- On 1 March, the appointed person sets the hearing date for 1 April.
- On 1 March, the appointed person gives notice of the relevant date to the applicant, the Authority and section 37 copy recipients (meeting the minimum 4-week requirement for a 1 April hearing).
- On 15 March, the Authority publishes notice of the hearing (meeting the minimum 2-week requirement for 1 April hearing).

Hearing date changed

- On 15 March, the appointed person changes the hearing date to 20 April.

What must happen to comply with Regulation 11(2) and 11(3)

- The appointed person must give fresh notice of the new relevant date (20 April) to the applicant, the Authority and section 37 copy recipients at least 4 weeks before 20 April. This means the latest date by which notice must be given is 23 March.
 - The Authority must publish fresh notice of the hearing for the new relevant date (20 April) at least 2 weeks before 20 April. This means the latest date by which publication must occur is 6 April.
57. In practice, the appointed person and the Authority should issue the revised notices as soon as possible after the date is changed, to provide clarity to all parties and to support effective participation.
58. The appointed person may only decide to hold a remote or hybrid hearing if they are satisfied that all parties will be able to fully present their case, that all participants have the means to hear and be heard and, for video hearings, to see and be seen, and that the application can be heard fairly and transparently. The appointed person may also decide to hold the hearing wholly by live audio link where video is unavailable due to connectivity problems and both the applicant and the Authority agree. Where the appointed person chooses a remote or hybrid format, they must ensure they have access to the necessary remote access equipment.
59. The appointed person may decide, if it considers it to be appropriate, to proceed with determining the application based on the written information submitted, if either the applicant or the Authority is unable to attend on the date of the hearing. The appointed person also determines the procedure for the hearing, including who may appear and how the hearing will be conducted. The appointed person must allow the applicant, the Authority, and those who made representations about the appeal to appear and may decide to permit other persons to take part. Where a request is made for a person to appear at a hearing or an inquiry, the appointed person must not unreasonably withhold permission in respect of such an appearance. Cross-examination is only permitted at a hearing if the appointed person considers it necessary for a thorough examination of the main issues. In which case, the appointed person must consider whether to close the hearing and instead hold an inquiry. In making this decision the appointed person must consult both the applicant and the Authority and take their views into consideration.
60. During the hearing, the appointed person may consider any written representations, documents or evidence received before or during the hearing, provided they disclose them to participants. The appointed person may also decide to exclude evidence or restrict participation where material is late, non-compliant, irrelevant, repetitive or where a person behaves disruptively. The appointed person may require a disruptive person to leave the hearing, prevent the person from participating in the hearing or may impose conditions on their continued participation. The appointed person may adjourn the hearing at any time and may decide to hold the hearing, or part of it, in private. This would depend on factors such as the specific circumstances of the appeal and the nature of the material being discussed.

Pre-inquiry Meeting

61. The Regulations set out that, where an application is to be determined by way of inquiry, the appointed person may choose to hold a pre-inquiry meeting. The purpose behind a pre-inquiry meeting is to help the appointed person and participants focus on the issues, and set clear preparation timetables, reducing the risk of delay or disputes once the inquiry opens. It enables early clarification of participation and evidential needs, improving the efficiency and fairness of the subsequent inquiry. Some examples of why the appointed person may have a pre-inquiry meeting are:
- To identify and narrow the issues to be examined at the inquiry - the appointed person may consider a meeting helpful where the application raises multiple or complex issues and early discussion could establish which matters are agreed, which remain in dispute and which require evidence at the inquiry.
 - To provide directions about evidence and procedural steps - a pre-inquiry meeting may be held where the appointed person needs to clarify what information, documents or proofs of evidence need to be submitted, and by what deadlines, so that the inquiry proceeds in an orderly way.
 - To confirm who intends to appear and the role of each participant - the appointed person may wish to determine which individuals or organisations intend to take part, whether they will be represented and how their participation will be managed.
 - To discuss and resolve practical arrangements - a meeting may be useful where logistical arrangements need attention, for example, the length of the inquiry, venue considerations, remote participation requirements or the need for technical support.
 - To avoid delay or dispute once the inquiry opens - where there is risk of late procedural disagreements, uncertainty over evidence or unclear expectations between the applicant and the Authority, the appointed person may decide a meeting is necessary to avoid complications once the inquiry begins.
 - To manage inquiries involving large volumes of material or multiple witnesses - if the inquiry is likely to involve extensive documentation, expert evidence or several witnesses, the appointed person may hold a meeting to organise how that material will be handled and presented.
62. Where an application is to be determined by way of an inquiry, the appointed person may hold a pre-inquiry meeting to determine the matters to be addressed at the inquiry and the procedure to be followed. If the appointed person decides to hold a pre-inquiry meeting, they must give at least 4 weeks' notice of the meeting to the applicant, the Authority, any person known at the date of the notice to be entitled to appear at the inquiry and any other person whose presence the appointed person considers desirable.
63. At the pre-inquiry meeting, the appointed person may give directions to the applicant, the Authority and any other person wishing to appear at the inquiry, about things to be done in preparation for the inquiry, and the date by which they must be done. It is a requirement to comply with a direction.

Statement of Agreed Facts – Inquiries

64. Where an appeal is to be determined by inquiry, the applicant and the Authority must prepare a statement of agreed facts. The statement of agreed facts is a joint document that sets out all facts of the case on which they can agree. The statement clarifies what is not in dispute so that the inquiry can focus on the remaining issues that genuinely require examination.
65. The statement is intended to help the appointed person including where:
 - The inquiry involves multiple technical or historical facts and confirming what is agreed will avoid unnecessary time being spent establishing basic background information.
 - There is a mixture of agreed and disputed material and clearly separating these will help structure the inquiry and plan the order of evidence.
 - The issues are complex and early factual agreement will support a focused and efficient inquiry timetable.
66. The Authority must ensure that the statement of agreed facts is sent to the appointed person at least 2 weeks before the inquiry begins. The statement should cover agreed factual matters relevant to the application and be clear to assist the inquiry.

Proofs of Evidence - Inquiries

67. Any person entitled to appear at an inquiry, who intends to give evidence or call a witness must send a proof of evidence to the appointed person at least two weeks before the inquiry date, unless the appointed person sets a different deadline. This should be sent together with any written summary.
68. Requiring proofs of evidence and summaries where lengthy, promotes fairness and efficiency by ensuring all participants and the appointed person, understand the case and evidence in advance of the inquiry.
69. On receiving a proof of evidence, the appointed person must send a copy to the applicant, the Authority, and any other person who has submitted a proof of evidence. This ensures all participants have sight of each other's material in advance. Circulation by the appointed person reduces the risk of surprise, helps focus inquiry time on the real issues, and supports proportionate case management, including cross-examination where appropriate.
70. If a proof of evidence exceeds 1,500 words, the provider must also supply a written summary. Only the summary may be read at the inquiry, unless the appointed person directs otherwise. Where a summary is read, the full proof is treated as tendered in evidence, unless the provider confirms they wish to rely on the summary alone. Witnesses may be cross-examined on the proof to the same extent as if their evidence had been given orally.
71. The appointed person may allow alterations or additions to a proof of evidence or summary if necessary for the purposes of the inquiry. If changes are allowed, the appointed person must ensure that every other person appearing has an adequate opportunity to consider the new material, which may involve adjourning the inquiry if needed.

72. These procedures operate subject to the appointed person's powers to exclude persons or evidence, for example where material is late, non-compliant, irrelevant or repetitious.

Procedure – Hearings and Inquiries

73. The appointed person has the necessary procedural control to run hearings and inquiries efficiently and fairly. By allowing the appointed person to regulate appearances, manage evidence, permit or restrict cross-examination and adjourn where needed, the Regulations provide a flexible framework that can be adapted to the circumstances of each application. The ability of the appointed person to determine the procedure to be followed at a hearing or an inquiry supports proportionate and transparent decision-making while maintaining fairness for all participants.
74. Those entitled to appear at a hearing or an inquiry are:
- the applicant;
 - the Authority; and
 - any person who has made representations concerning the appeal.
75. The appointed person may also permit other persons to appear, and such permission must not be unreasonably withheld. Parties may appear in person or be represented by another person.
76. Representatives may include legal advisers, technical specialists such as geotechnical or mining engineers, professional agents, colleagues or other trusted individuals able to assist. A person may choose to be represented where the issues are technical or complex, where they would benefit from help presenting their case or managing documents or to support effective participation, for example, where confidence, communication needs or the potential need to respond to probing of evidence make representation helpful.
77. A person entitled to appear may call evidence, although the calling of evidence is at the appointed person's discretion. At a hearing, cross-examination is not permitted unless the appointed person considers it necessary to ensure a thorough examination of the main issues. If cross-examination becomes necessary, the appointed person must consider, after consulting the applicant and the Authority, whether to close the hearing and instead hold an inquiry.
78. At an inquiry, a person entitled to appear may cross-examine a person giving evidence, although the appointed person retains discretion to regulate the extent of cross-examination.
79. The appointed person may consider any written representation, evidence or document received before or during the hearing or inquiry, provided that it is disclosed. The appointed person may also decide that the hearing or inquiry, or part of it, must be held in private, where they consider this appropriate.

Powers to Exclude Persons, Evidence etc.

80. The appointed person has the discretion to manage hearings and inquiries by preventing individuals from giving evidence, cross-examining someone giving

evidence or presenting any matter, where necessary to uphold fairness and efficiency. This discretion may be exercised in a number of situations, for example if evidence is late, non-compliant with the regulations or directions, irrelevant, repetitive, or if a person behaves disruptively. In cases of disruptive conduct, the appointed person may impose conditions, restrict participation, or require removal, while ensuring decisions and reasons are clearly recorded. Where oral evidence is refused due to disruptive behaviour, written submissions may still be accepted unless exclusion is justified under the same criteria. These measures safeguard the integrity of proceedings and ensure that hearings and inquiries remain focused, orderly and transparent.

Concurrent or Combined Hearings and Inquiries

81. To ensure consistency and avoid duplication, the appointed person should actively identify related applications concerning the same section 35 notice. Where applications are to be determined through hearings or inquiries, and the matters are sufficiently connected, the appointed person may direct that proceedings be held concurrently or combined into a single hearing or inquiry.

National Security Questions

82. Where the Welsh Ministers issue a certificate that an appeal would be contrary to the interests of national security if an inquiry were held or if certain persons were to be admitted to the inquiry, then the inquiry is not to be held, or certain persons are not to be admitted to the inquiry (or part of it). National security overrides normal procedural requirements and the appointed person will be expected to keep clear accurate records of actions taken for accountability.

Revoking an Appointment

83. The Welsh Ministers may revoke the appointment of the appointed person, where an application has not been determined, if either of the following applies:
- the appointed person tells the Welsh Ministers in writing that they are unable to continue determining the application; or
 - the Welsh Ministers are otherwise satisfied that the appointed person is unable to continue.

Where the Appointed Person Tells the Welsh Ministers in Writing

84. This might happen, for example, where the appointed person:
- becomes unwell or incapacitated and is unable to continue with the application;
 - has a conflict of interest or becomes aware of information that creates a real or perceived conflict;
 - changes employment or professional role and is no longer able to act independently;
 - no longer meets the requirements of their appointment; or
 - is unavailable for an extended period and cannot determine the application within a reasonable timescale.

Where the Welsh Ministers are Otherwise Satisfied

85. This might arise where, for example, the Welsh Ministers become satisfied that the appointed person:
- is subject to circumstances that compromise their independence or impartiality;
 - has failed to progress the application and cannot reasonably be expected to do so;
 - has ceased to act in the role for practical or legal reasons; or
 - is otherwise unable to complete the determination of the application in a fair and timely manner.
86. In such circumstances, the Welsh Ministers will appoint another person as soon as reasonably practicable to determine the application.
87. Where a new person is appointed, that person has the discretion to decide on a case-by-case basis whether an appeal should restart from the beginning or continue from the stage it has already reached. In making this decision, the appointed person will be expected to consider the circumstances of the case and the written evidence that has already been submitted.
88. As previously submitted materials remain part of the record, reducing the need for duplication, it is expected the appointed person will consider how best to manage continuity and transparency in such cases, especially where hearings have already taken place or evidence has been presented.

Procedure for Reimbursement of Landowner's expenses on cancellation of a section 35 notice

89. Section 43 of the Act allows the landowner who was given a section 35 notice to apply for reimbursement of their expenses on cancellation of the notice. The Act also specifies the expenditure that the owner may seek to recover following cancellation of the notice, and these are explained in the following sections.
90. An owner of land may apply to the Welsh Ministers to be reimbursed by the Authority for:
- Expenditure incurred in consequence of the giving of the section 35 notice;
 - Expenditure incurred which is attributable to the cancellation of the notice;
 - Expenditure incurred in consequence of the giving of the section 35 notice.
91. This could cover any costs the owner of land has incurred in carrying out operations required by the notice, even if those works are no longer needed. This could include expenses incurred whilst getting ready to carry out the operations the notice required. Examples could include:
- Paying a contractor to start or prepare for the work;.
 - Hiring machinery, equipment or plant;
 - Buying material;.
 - Professional fees or surveys needed to begin the required work.
92. These costs may be claimed because they were a direct result of the section 35 notice.
- Expenditure attributable to the cancellation of the notice, including (without limitation) expenditure attributable to reinstatement of any land, cancellation of any contract or other expenditure attributable to the cancellation.
93. This could cover any costs incurred as a result of the cancellation itself.
- Examples could include:
- Reinstating land (e.g. where works have already started).
 - Cancelling a contract (e.g. paying contractor cancellation fees).

Making an Application under Section 43 of the Act

94. An application for reimbursement of a landowner's expenses following the cancellation of a section 35 notice must be submitted to the Welsh Ministers within six months beginning with the date of the notice of cancellation. The application must be made on the form provided by the Welsh Ministers. It must include:
- the applicant's full contact details, including name, postal address, email address, and telephone number;
 - the contact details of any agent acting on their behalf;

- the location of the land to which the cancelled section 35 notice relates;
 - the name by which the land is commonly known;
 - details of the applicant's interest in that land;
 - a statement of account and evidence showing:
 - the expenditure the applicant incurred in consequence of the section 35 notice; and
 - the expenditure incurred as a result of the cancellation of the notice (for example, reinstatement costs or contract cancellation costs);
 - a list of all supporting documents, including dates where applicable;
 - a copy of the section 35 notice;
 - a copy of the notice of cancellation; and
 - copies of all documents the applicant intends to rely on.
95. The appointed person must check for completeness, ensuring all required information and documentation has been provided before determination can begin.

Determination of Applications

96. Upon receipt of an application for reimbursement of expenses on cancellation of a section 35 notice, the Welsh Ministers will appoint a person to determine the application.

Start Date

97. Following receipt of an application, the appointed person will need to determine whether the application satisfies the requirements of the Regulations in respect of its content and accompanying documents. As soon as practicable after doing this, the appointed person must notify both the applicant, the Authority and each person who was given a copy of the section 35 notice, of its decision. The appeal begins the day after the date of notification. This "start date" triggers the timescales for subsequent steps in the procedure.

Representations and Comments

98. The Authority must submit any representations together with any documents within two weeks beginning with the start date. At the end of that two-week period, the appointed person must send a copy of the Authority's representations to the applicant (see Annex 1 for a table of deadlines under this section of the guidance).

Revoking an appointment

99. The Welsh Ministers may revoke the appointment of the appointed person, where an application under section 43 of the Act has not been determined, if either of the following applies:
- the appointed person tells the Welsh Ministers in writing that they are unable to continue determining the application; or

- the Welsh Ministers are otherwise satisfied that the appointed person is unable to continue.

Where the Appointed Person Tells the Welsh Ministers in Writing

100. This might happen, for example, where the appointed person:

- becomes unwell or incapacitated and is unable to continue with the application;
- has a conflict of interest or becomes aware of information that creates a real or perceived conflict;
- changes employment or professional role and is no longer able to act independently;
- no longer meets the requirements of their appointment; or
- is unavailable for an extended period and cannot determine the application within a reasonable timescale.

Where the Welsh Ministers are Otherwise Satisfied

101. This might arise where, for example, the Welsh Ministers become satisfied that the appointed person:

- is subject to circumstances that compromise their independence or impartiality;
- has failed to progress the application and cannot reasonably be expected to do so;
- has ceased to act in the role for practical or legal reasons; or
- is otherwise unable to complete the determination of the application in a fair and timely manner.

102. In such circumstances, the Welsh Ministers will appoint another person as soon as reasonably practicable to determine the application under section 43 of the Act.

103. Where a new person is appointed, that person has the discretion to decide on a case-by-case basis, whether an appeal should restart from the beginning or continue from the stage it has already reached. In making this decision, the appointed person will be expected to consider the circumstances of the case and the written evidence that has already been submitted.

104. As previously submitted materials remain part of the record, reducing the need for duplication, it is expected the appointed person will consider how best to manage continuity and transparency in such cases, especially where written evidence has already been submitted.

Supplementary Provisions

105. The following section of the guidance explains the supplementary provisions in the regulations, which apply to both section 38 applications (to vary or cancel a section 35 notice) and section 43 applications (for reimbursement of expenses). These provisions set out the general procedures that apply across all applications, regardless of type.

Notification of Determination

106. The appointed person must send a written notification of the outcome to:
- the applicant;
 - the Authority; and
 - any person who was originally given a copy of the section 35 notice to which the appeal relates.

Supply of Documents

107. All materials required or permitted to be sent or supplied in relation to an application must be submitted in writing, by post or electronic communication, with referenced documents supplied alongside to ensure completeness. To streamline administration, duplicate hard copies are required from the applicant or the Authority and triplicate from other parties, unless documents are sent electronically. The appointed person may dispense with re-submission where a document has already been supplied for the purposes of the appeal and is accessible to all.
108. Electronic communications received outside business hours will be treated as received on the next working day and late representations, documents, evidence or information may be disregarded to protect procedural integrity. Where the applicant submits any documents electronically, they consent to using email for all aspects of the application that can be handled that way, until this consent is formally revoked in writing. Throughout, the appointed person will be expected to enforce deadlines and maintain accurate records of receipt, circulation and any directions to ensure a fair, transparent and efficient process.

Extending Relevant Time Limits and Providing Additional Information or Copies

109. The appointed person should exercise discretion to extend deadlines only in exceptional circumstances, while ensuring the application remains timely, fair and well-evidenced. Where necessary to properly determine the application, the appointed person may require further information (for example, by requiring a person to provide relevant material) or invite additional representations. The appointed person should set clear time limits for such additional information. All such decisions should be supported by proportionate directions, enforced timelines and accurate records explaining the reasons for any extensions or further requests, thereby safeguarding accountability and procedural integrity.

Site Inspections

110. An appointed person may consider it necessary to visit a site where doing so supports the proper exercise of their functions under these regulations.
111. The appointed person may conduct a site visit unaccompanied or they may be accompanied where necessary to determine the application, notifying the applicant and any relevant parties of the date and time, as appropriate. Visits must be impartial, and the appointed person should avoid any perception of one-sided engagement, ensuring that any necessary conversations occur in the presence of both sides, and making it clear that where a party attends solely to provide access to the land, no discussion of the application will take place.

112. Clear records of the visit date, time, and observations should be kept supporting transparency and accountability. The visit need not be cancelled or deferred if any person, including the applicant, is not present at the appointed time, provided the appointed person is still able to observe the site and its surroundings adequately.
113. The following sets out some examples of why a site visit may help to inform the appointed person as part of an appeal:
- Understand the physical nature of the works the owner was required to carry out;
 - The appointed person may need to see the land to assess whether the applicant's claimed expenditure is consistent with what would reasonably have been needed to comply with the section 35 notice;
 - Verify work that had already begun before the notice was cancelled.

If the landowner has claimed reimbursement for work already undertaken or part-completed, the appointed person may wish to view any visible evidence of preparatory or partially completed operations (e.g., earthworks, drainage channels, access routes, vegetation clearance).

- Assess whether any reinstatement costs claimed are reasonable.

An owner of land can claim for expenditure caused by cancellation, which includes costs of reinstating land. The appointed person may visit the site to understand the extent of reinstatement required and whether the claimed costs appear to be proportionate given the physical condition of the land.

- Clarify disputed facts between the owner and the Authority.

Where the written evidence includes differing accounts, for example, about the amount of work started, the condition of the site at the time of cancellation or the reasonableness of preparatory actions, the appointed person may consider a site visit necessary to resolve factual uncertainty.

Failure to Take Action

114. To prevent unnecessary delays, the appointed person may proceed to determine an application where either the applicant or the Authority fails to provide required information within the prescribed time limits, provided prior notice of this intention is given to both parties. Decisions must be based on the available evidence and made in a fair and transparent manner. The appointed person will be expected to maintain clear records confirming that appropriate notice was issued and documenting the rationale for proceeding without the missing information.

Withdrawal of Application

115. The applicant may withdraw their application at any time before the appointed person has determined the appeal by writing to the Welsh Ministers.
116. If an application is withdrawn, the Welsh Ministers must notify the Authority and each person who was given the section 35 notice, or a copy of it, of the withdrawal.

Annex 1

Making Representations and Comments

This table sets out what the appointed person, the Authority, and the applicant must do, and by when, for applications under section 38 to vary or cancel a notice . All deadlines run from the start date of the appeal.

A) Written representations (section 38)

Stage	Who?	What must be sent to the appointed person?	Deadline (from start date)	What must the appointed person do?
Initial representations	Authority	Any representations the Authority wishes to make in relation to the appeal, plus any documents it will rely on	By week 4	As soon as reasonably practicable after receiving the representations and documents from the Authority, send a copy of these to the applicant.
Optional additional representations	Applicant	Any additional representations (beyond the application and the documents submitted with the application)	By week 4	As soon as reasonably practicable after receiving the additional representations and documents from the applicant, send a copy of these (if any) to the Authority.
Other representations in relation to the appeal	Anyone other than the Authority and the applicant	Where the appointed person receives representations from anyone other than the Authority and the applicant	(This is not required)	As soon as reasonably practicable after receiving other representations in relation to the appeal, send copies of those other representations, to the applicant and the Authority.

Stage	Who?	What must be sent to the appointed person?	Deadline (from start date)	What must the appointed person do?
Comments on representations	Applicant and Authority	Comments on the representations exchanged at week 6	By week 6	As soon as practicable after week 6, send a copy of the Authority's comments to the applicant and, at the same time, a copy of the applicant's comments to the Authority.
Further information / comments (if required by the appointed person)	Applicant and/or Authority	Any further information, representations, or documents requested by the appointed person	By any time limit set by the appointed person	Where further material is received, as a matter of good practice the appointed person will be expected to circulate such material to the other party as soon as practicable.

B) Hearing or inquiry (section 38)

Stage	Who?	What must be sent to the appointed person?	Deadline (from start date)	What must the appointed person do?
Statements of case and document lists	Applicant and Authority	A statement with full particulars of the case to be put forward, and a list of documents to be referred to or put in evidence	By week 4	As soon as reasonably practicable after receiving the statement and list of documents from the Authority and the

Stage	Who?	What must be sent to the appointed person?	Deadline (from start date)	What must the appointed person do?
				applicant, send the Authority's statement and document list to the applicant, and the applicant's statement and document list to the Authority.
Other representations in relation to the appeal	Anyone other than the Authority and the applicant	Where the appointed person receives representations from anyone other than the Authority and the applicant	(This is not required)	As soon as reasonably practicable after receiving other representations in relation to the appeal, send copies of those other representations, to the applicant and the Authority.
Comments on statements	Applicant and Authority	Comments on the other party's statement and document list	By week 6	As soon as practicable after week 6, send a copy of the Authority's comments to the applicant and, at the same time, a copy of the applicant's comments to the Authority.
Further information / comments (if required by the appointed person)	Applicant and/or Authority	Any further information, representations, or documents requested by	By any time limit set by the appointed person	Where further material is received, as a matter of good practice the appointed

Stage	Who?	What must be sent to the appointed person?	Deadline (from start date)	What must the appointed person do?
		the appointed person		person will be expected to circulate such material to the other party as soon as practicable.

This table sets out what the appointed person, the Authority, and the applicant must do, and by when, for applications under section 43 for reimbursement of expenditure incurred following the cancellation of a section 35 notice. All deadlines run from the start date of the appeal.

A) Written representations (section 43)

Stage	Who	What must be sent to the appointed person?	Deadline (from start date)	What must the appointed person do?
Initial representations	Authority	Any representations the Authority wishes to make, together with any documents it wishes to rely on	Within 2 weeks	At the end of week 2, send a copy of the Authority's representations to the applicant.
Circulation of representations	Appointed person	—	At end of week 2	Send a copy of the Authority's representations to the applicant.
Further information / comments (if required by the appointed person)	Applicant and/or Authority	Any further information, representations, or documents requested by the appointed person	By any time limit set by the appointed person	Where further material is received, as a matter of good practice the appointed person will be expected to circulate such material to the other party as

				soon as practicable.
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Note: In the Regulations, the section 43 written representations procedure provides for Authority representations within 2 weeks and circulation to the applicant. The Regulations do not set a general “comments” stage for section 43 applications; the appointed person may, where necessary, require information, in exceptional circumstances, under the supplementary provisions.

This annex explains key terms used in this guidance.

Term	Meaning
The Act	The Disused Mine and Quarry Tips (Wales) Act 2025.
Appeal	This refers to the determination of an application under section 38 (Part 2) or section 43 (Part 3), depending on the context.
Applicant	This refers to a person who makes an application under section 38 or section 43, depending on the context.
Application	Depending on the context, this refers to an application to the Welsh Ministers under section 38 (to vary or cancel a section 35 notice) or under section 43 (for reimbursement of expenses following cancellation of a section 35 notice).
Appointed person	A person appointed by the Welsh Ministers to determine applications under sections 38 and 43.
Authority	The Disused Tips Authority for Wales
Hearing	An oral procedure for determining an appeal, which may take place in person, remotely, or in hybrid form, as permitted by the Regulations. Cross examination is generally not permitted, although there are exceptions.
Inquiry	A more formal oral procedure than a hearing, typically involving witnesses and cross-examination, conducted in accordance with the Regulations.
Notice of cancellation	A notice given by the Authority cancelling a section 35 notice.
Section 35 notice	A notice given by the Authority requiring an owner of land to carry out specified operations.
Section 38 application	An application to vary or cancel a section 35 notice.
Section 43 application	An application seeking reimbursement of expenses where a section 35 notice has been cancelled.
Start date	The date the appeal begins.

The Regulations	The Disused Mine and Quarry Tips (Appeals and Reimbursement) (Wales) Regulations 2027
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