Hearings and Inquiries

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August 2026 – Added reference to the 'Statutory Code of Practice Services, public functions and associations' under the Equality Act 2010 in para 90. January 2026, Annex T added, Booking accommodation – Health and Safety	

Key legislation and policy

Legislation	• Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017 • The Equality Act 2010 (Code of Practice on Services, Public Functions and Associations) (Commencement) Order 2026
National policy and guidance	• Development Management Manual
Judgments	• Dyason v SSE & Chiltern [1998] • Castleford Homes Ltd v SSETY [2001] cited in Van Dem Boomen & Anor, R (on the application of) v Ashford Borough Council & Anor [2007] • Francis v SSCLG & LB of Greenwich [2008] • Wainhomes v SSCLG [2013] EWHC 597
Other guidance	• Procedural Guide – Wales • Venue and facilities for public inquiries and hearings • PEDW guidance 'Determining the procedure' • Statutory Code of practice for services, public functions and associations

Other relevant Manual chapters

- Role of Inspector
- Approach to Decision Making
- Human Rights and the Public Sector Equality Duty

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Introduction

1. The Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017 ('2017 Regulations' or just 'Regulations'), which revoked various rules published in 2003, apply to hearings and inquiries for most casework handled by PEDW (see Regulation 2(2) for the full list). Specialist casework with no set procedures normally follow the spirit of the 2017 Regulations.

2. In this guide, the term 'event' is used to describe a hearing or inquiry, whether in-person, virtual or a combination of the two ('blended').

3. Hearings are *inquisitorial*. They are a structured, formal discussion which is led by the Inspector. The inquisitorial burden falls on the Inspector[1].

4. Inquiries are *adversarial*. The parties present their cases to the Inspector and witnesses are subject to cross-examination. The inquisitorial burden mainly falls on the opposing party rather than the Inspector.

5. The overall process and timescales for appeals is set out in the Regulations and is summarised in '*Procedural Guide Wales'*. You should be familiar with this procedural advice as participants may have read it and have a legitimate expectation that it will be followed.

Choosing the procedure

6. Under Section 319B of the 1990 Act and Reg 14 of the 2017 Regulations, PEDW determines the procedure by which appeals are decided. Criteria for determining the procedure are set out in the *Procedural Guide – Wales*.

7. A Hearing is appropriate where:
   - the Inspector is likely to need to test the evidence by questioning or to clarify matters but there is no need for evidence to be tested through formal questioning by an advocate or given on oath; or
   - the status or personal circumstances of the appellant require testing; or
   - in an enforcement appeal, the grounds of appeal, the alleged breach, and the requirements of the notice, are relatively straightforward.
8. Parties may be represented by advocates at a hearing and can test the evidence by way of questioning but cross examination is not permitted.

9. An Inquiry is appropriate where:
   - there is a clearly explained need for the evidence to be tested through formal questioning by an advocate; or
   - the issues are complex.
   - evidence needs to be given on oath; or
   - in an enforcement appeal, the alleged breach, or the requirements of the notice, are unusual and particularly complex.

[1] See *Dyason v SSE & Chiltern [1998]*.

10. There are three main objectives to holding a hearing or inquiry:

- To ensure that the evidence is thoroughly examined and tested to enable you to reach a reasoned decision or recommendation.
- To ensure all parties and interested persons have a reasonable opportunity to participate and have a fair hearing.
- To manage the event in an effective and proactive manner, making efficient use of time.

11. Appeals must be dealt with by the most appropriate procedure in order to discharge the objectives set out above. However, appeals should also be determined efficiently and effectively.

12. The 2017 regulations allow appeals to be heard by a mix of procedures ("combined proceedings"). This means that a hearing or inquiry may be convened only to discuss those issues which merit oral evidence, with other matters determined via written representations.

13. Written representations is the 'default' procedure as it is the most efficient. Limiting the amount of time given to hearings or inquiries not only reduces demands on participants and expedites appeal timescales, but also reduces the burden on case officers. Therefore, you should review cases as soon as they are allocated to you and before opting for a hearing or inquiry consider whether seeking specific further written submissions from parties under Regulation 9 would obviate the need for a hearing or inquiry on a particular matter.

Virtual or in person?

14. Hearings and Inquiries will be held virtually by default but there may be situations where it would better to hold an in person event. Matters to take into account are:

- health and safety considerations,
- the level of interest in participating in the event,
- the views of the appellant and local planning authority,
- the circumstances of appeal parties,
- the particulars of the case and the nature of the evidence being examined,
- the availability of suitable premises in an accessible location close to the appeal site, and
- the extent to which virtual participation may be prejudiced or prevented by access to the necessary equipment or connection issues.

15. The level of local interest may also be factor in deciding to hold an event in person, where that would enable effective management of public participation in the event. The final decision on the type of event will rest with the Inspector, having regard to the above considerations.

16. Events should be held in person where evidence needs to be given on oath, where personal information is likely to be discussed such as the needs of children or medical circumstances are likely to be main issues.

Matters to be considered at an event

17. The internal PEDW guidance note 'Determining the procedure' provides advice on the types of matters which may merit a hearing or inquiry.

18. Regulation 14 requires that the matters to be considered at the hearing or inquiry, and whether any further submissions are required, must be identified within 6 weeks of the appeal being validated. You will be charted a day in week 5 or 6 to do this.

19. For smaller and less complex cases, where an event is required it may be more appropriate to state that evidence will be heard on 'all relevant matters' rather than named issues. Whilst doing this would not enable you to limit discussions at the event, in practice it may make little difference to the length and complexity of the hearing or inquiry.

20. There is no requirement in the regulations for the submission of Hearing/Inquiry statements. However, if anyone giving evidence at Inquiry wishes to do so by reading a written statement they may do so (see paragraphs 198 to 203). Further, the regulations allow Inspectors to invite further submissions and in complex cases written responses to specific Hearing and Inquiry topics or matters may be helpful.

21. Redacting, publishing exchanging statements and checking they have been submitted by those entitled to do so is likely to place a significant burden on the case officer. To avoid this, statements should only be invited from parties you consider you need input from.

22. In cases where further submission to address the topics/matters would be helpful, the following could be added to the topics paper.

> Under regulation 31(1)/38(1) of Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017, the Inspector invites XXX to participate in the Hearing/Inquiry.
>
> Under regulation 9(1) of Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017, the Inspector invites the appellant, local planning authority and XXX to make submissions on the topics/matters listed above.
>
> The Inspector will consider all the material already before them. If your statement of case or representation addresses the topics/matters listed above, there is no need for you to make a further submission.
>
> Representations on any particular matter must not exceed 3,000 words and must be submitted by XXXX. Representations which exceed the word limit or are late may be disregarded.

23. Where you invite participants and further submissions you must inform the Casework and Scheduling teams.

Participants at an event

24. The appellant and LPA are automatically entitled to take part in the hearing or inquiry. Regs 31(1) and 38(1) allow the Inspector to invite any other person to participate. You should therefore invite parties whom you consider would help you reach a reasoned decision or recommendation.

25. Regulations 31(2) and 38(2) state, however, that there is nothing to prevent you from permitting any other person to appear. Such permission should not be unreasonably withheld. The starting point, therefore, is that you should be prepared to hear from anyone who attends. However, you may only hear representations on the matters you have identified to be discussed at the event.

26. As with the identification of matters, for smaller and less complex cases, it may not be necessary to specifically identify parties to the event. Instead, the invite would implicitly allow anyone attending the event to participate, albeit at your discretion.

27. Note that a person who is entitled to appear may be represented by another person (Regs 31(3) and 38(3)).

Virtual, 'blended' and in-person events

28. Virtual events are held via videoconference. A 'blended' event is where some attendees are present in one or more event 'venues', whereas other participants participate via video or telephone. The legal basis for virtual or blended hearings or inquiries is the same as for in-person events.

29. Virtual and blended events offer certain benefits to participants and observers, for example limiting the need to travel, reducing costs and improving accessibility. PEDW's starting point is therefore that hearings and inquiries will be held virtually.

30. Nonetheless, a blended or in-person event may be more appropriate in some circumstances, for example where a case has generated significant local interest, or where there is a sound reason for one of the main parties not being able to participate virtually. If you consider there is a legitimate reason for allowing in-person participation at an event, speak to your Inspector Manager.

Changing the procedure

31. The procedure can be changed by the Inspector; and should be if necessary. Ideally this should take place before the event, but it can be done at any time.

32. If necessary, you can close a hearing so that an inquiry can be arranged (Regulations 32 and 34). Reg 33(3) states that if you consider that cross-examination is necessary, you must consider, after consulting the appellant and LPA, whether the hearing should be closed and an inquiry held instead.

33. If an appeal is proceeding via inquiry and you consider that a hearing should be held instead, Reg 46 allows the procedure to be changed, subject to written notification being provided. Similarly, Reg 25 allows appeals proceeding via written representations to be transferred to a hearing, inquiry or combined procedure.

34. Whilst not specifically provided for in the Regulations, there is nothing to prevent Inspectors changing from a hearing/inquiry (or combined) procedure to solely written representations.

Requests for a witness summons

35. You have the power under s250(2) of the Local Government Act 1972 to issue a witness summons. It is a power that is used rarely and should be exercised with caution and only as a last resort. Matters can normally be resolved by a request from you that the attendance of a particular person would be helpful. In any case, although you can compel someone to attend, you cannot require them to speak. For more advice see **Annex O**.

Preparing for an event

36. As soon as a case has been allocated to you, check:

- That you should not be precluded from the case (see 'Role of the Inspector'), the case is within your capabilities, and you have sufficient time in your chart for preparation, sitting and reporting. If not provide reasons to the Chart Officer.
- The format of the event (virtual, in-person) and location of any venue. If necessary, book a hotel and travel.
- The suggested start time. Change this if, for example, it would assist in avoid an overnight stay, visiting the site beforehand or meeting caring responsibilities.

37. If you are uncomfortable or unable to hold the event from your home, you may choose to hold it from a regional WG office (use 'MyBookings' on the intranet to do this). If there is no WG office situated conveniently in relation to your home or the site, discuss alternative arrangements with your Inspector Manager.

38. If you are holding a virtual or blended event from a location other than your home, ensure that the start time will enable you to be at the venue in plenty of time to set up and check the technology. Confirm the start time with the event Administrator to ensure that they will be available to admit people to the event.

Identifying matters and participants

39. To identify the matters to be discussed at the event:

- Read the file systematically, ensuring that you understand the proposal and that no key documents are missing (if so, request them via the case officer).

- Establish relevant development plan and national policy. Do you need to consider whether the former is consistent with the latter?
- Consider whether any procedural matters need clarifying (e.g. the nature of the proposal, amendments/revised plans, reserved matters) and whether these could be addressed in further written submissions.
- Identify the main issues by looking at the reasons for refusal, the main parties' statements and any Statement of Common Ground and determine whether the nature of the issues would merit a hearing or inquiry.
- Consider any other matters raised by interested parties, and how they should be dealt with, taking account of their materiality and complexity.
- Other than the LPA and appellant, determine any other parties from which you may want to seek oral evidence and/or are likely to want to speak.

40. Ensure that any specific matters and invited participants are sent to the Case Officer in time to meet the 6-week target set in the Regulations. If you are dealing with some matters on the basis of the written representations, make this clear, including whether you are inviting further submissions on those matters.

Agenda, questions and opening/closing script

41. You will need to draft a bilingual agenda. **Annex D** includes templates; depending on the nature of the case these may need to be adapted.

42. When setting the agenda for a virtual event remember that the parties will need more breaks than you would take at an in-person event. Sessions should be limited to 90 minutes. If this means that more than one day is needed, consider holding different topic-based sessions and tailoring the participants accordingly. This may reduce participant numbers at sessions.

43. You should prepare a list of questions you want to ask in relation to each agenda item, in order to help you test the evidence. Questions should be focused on procedural matters, main issues and any relevant other matters. Do not raise unnecessary side issues. For inquiries, this will involve reading proofs of evidence thoroughly and noting down questions which you may need to raise if the opposing party does not.

44. Prepare your opening and closing statements (examples are included at **Annexes F, G and H**), including a list of those who are likely to appear.

Welsh Language and simultaneous translation

45. Standard 33 of the Welsh Ministers' Welsh language Compliance Notice requires that, where a meeting is arranged that is open to the public:

- Simultaneous translation must be available (Welsh to English), and
- The Inspector must orally inform those present in Welsh that they are welcome to speak Welsh and that translation is available

46. **Annex E** provides advice on the wording to be used, and pronunciation.

47. When preparing for the event, you should be alert to the language preference expressed by participants and other interested parties, and the language of written representations.

48. If any person has requested to participate in an event in Welsh, check with the case or chart officer that simultaneous translation has been arranged. For virtual events, PEDW is responsible for arranging this; for in-person events held in LPA offices, the responsibility usually falls to the LPA.

49. At virtual events there will be two audio channels available. Those using the English language channel will only hear the translator, whereas those using the Welsh language channel will hear Welsh and English spoken.

50. If you have not run a virtual event bilingually before, ask for a practice run beforehand to enable you to become familiar with the way it will operate.

'Test event' for virtual events

51. The Administrator will have run a test event with the participants and any observers around one week before the event to check connections and familiarity with technology. The Inspector will not be present but if any issues arise will be informed of these by the Administrator.

Nearer the day of an event

52. As the event approaches:

- Reappraise the case, read any further submissions you may have requested, and update the agenda if necessary.
- Check that you have the letters of notification of the event.
- Check the venue, start time, and date. If necessary, ask the chart officer to check if the LPA is providing a parking space, and if a pass is needed.
- Consider whether any procedural issues or complaints could be resolved.
- Prepare a list of features you want to see on the site visit (for adding to during the event, as necessary).

53. If holding the event from home, think about how to position your laptop and desk to make you feel comfortable during the event, and whether there are likely to be any interruptions. Raise your laptop so that the webcam is around eye level and not too close to your face, with soft lighting behind the camera if possible. Using the headset will aid audibility and prevent attendees from hearing background noises in your home.

54. If the venue is elsewhere, before leaving check the weather forecast and travel news and make sure you have everything you need (see **Annex A**).

55. If you are staying overnight near the venue, do not talk with any guests as they might be involved in the event.

Pre-event site visit

56. Pre-event visits are not always essential (e.g. if relevant features cannot be seen from public land and there are no issues regarding the wider area). However, if practical and possible, it is good practice to carry out an unaccompanied visit before an event as it can demonstrate that you know the site and may help you to ask informed questions at the event. It may also allow you to check that the site notice has been posted, if PEDW has asked the LPA to post one.

57. For virtual events it may not be straightforward to carry out a pre-event visit. Google Streetview may be sufficient to familiarise yourself with a site. However, if you consider that a visit is required, you should arrange one (particularly for enforcement cases). Ensure that time is charted accordingly and that your 'buddy' knows the date and time of the visit. Be proactive in asking the chart officer if there are cases for which you could undertake site visits on the same date (including any post-event visit you may need to get charted).

58. A pre-event site visit can be carried on the day itself or any day leading up the event. Be discreet and only view the site from publicly accessible land, following the advice in 'Site Visits'. If you are unfamiliar with the area, you may also wish to visit the event venue so that you know how to find it and where to park.

Immediately prior to a virtual event

59. The Administrator will start the meeting 30 minutes before the opening time and will admit participants and observers. In most cases the Administrator will remain present for 10 to 15 minutes following the opening and will be contactable via message/email for the remainder of the event. You may also want to inform the Administrator of likely timings for adjournments so that they can return at those points. In controversial or larger cases, the Administrator may need to remain for the whole event; if you consider this to be necessary, discuss it with your Inspector Manager.

60. Ask the Administrator to share their screen with a Powerpoint slide specifying the start time (or resumption time during adjournments). Ensure that your MS Teams background is set to the PEDW corporate background and that emails and other notifications are muted (see **Annex C** for advice). Message the Administrator privately a few minutes before the opening time to check that everyone is present.

Immediately prior to an in-person event

61. For in-person events, aim to arrive at the venue around 30-60 minutes before the event opens. This will allow you to:

- Ensure the room is suitable. For hearings, small meeting rooms are best where all participants can sit around a large table; Council chambers are less suitable unless the arrangements allow the participants to sit reasonably close to each other. For inquiries, check that you are happy with

the position of the witness table and opposing parties' tables. If the room is unsatisfactory or furniture needs moving, request changes.

- Check the room is suitable in terms of health and safety requirements (see **Annex B**), including the position of plug sockets you may need to access. Check fire alarm procedures with staff (or ask the LPA when opening).
- Check that the room will be accessible (see '*The venue and facilities for public inquiries and hearings'*). This explains that LPAs are responsible for ensuring that venues are accessible but this does not absolve Inspectors of responsibility. It states that if you consider the facilities to be unacceptable you will adjourn until a more accessible venue is provided.
- If simultaneous translation is being provided, introduce yourself to the translator, make a note of their name, and check that the system is working and that you know how it operates.
- Check that water will be available for all. You can accept the offer of tea/coffee if it has been provided for all participants.
- Check if you have a retiring room. In the case of one day hearings, there is no requirement for LPAs to provide a retiring room, although you can ask if there is somewhere you can wait away from the parties.
- Decide whether or not to use any PA system and if so, that you know how it works. Be prepared to adjust your approach if the acoustics call for it.

62. Once you have set out your papers and name plate it is best to leave the room so that you are not left alone with just one of the parties. It is best to take your own notes with you. Avoid getting involved in any discussion.

63. If anyone wants to engage you in conversation about the appeal, ask them to raise it once you have opened the hearing. However, you can deal with matters relating to the hearing venue.

Opening an event

In-person events

64. For in-person events, return to the room a few minutes (e.g. 2 or 3) before the event is due to open. While you wait to open you can use the time to check the main parties are present, distribute the agenda and encourage all those who intend to speak to sit around the table (or to sit where they will be able to participate). You should also check that the layout has not been changed unsatisfactorily, that there is enough seating for third parties, that no-one has put placards up which need taking down. Also get a feel for any disruptive behaviour.

65. Open the event at the appointed time using the clock in the room if there is one. Your opening should be delivered in a confident and purposeful manner. Look up and avoid undue reference to your notes.

Virtual events

66. For virtual events, join the meeting two minutes or so before the appointed time, going by the time on your laptop. Make a note of attendees, whether participants

or observers, but be aware that the individual's name may not match that shown on the screen. Take note of any poor internet connections; you may need to check that those individuals are able to follow proceedings.

67. You should 'spotlight' yourself immediately prior to starting your opening (see **Annex C**) but remember to switch this off when concluding your script. During the event maintain a brisk business-like pace, but be prepared to slow down and allow concessions, particularly for those who are unused to the technology.

Welsh Language

68. You must say in Welsh that those present may participate in Welsh (see **Annex E** for advice on the wording to be used and pronunciation). Participants must not feel compelled or pressured to speak in English, so if there are parties present who wish to participate in Welsh and simultaneous translation is not available, you should adjourn until it can be provided.

69. However, in all cases you should ensure the equal treatment of both languages in opening announcements. Start with a "Bore da" (assuming it is the morning – if not, then "Prynhawn da"). Don't fall into the trap of assuming that, just because the appeal is in a predominantly English-speaking area, parties will not want to speak in Welsh; someone who is bilingual may feel that they can express themselves better in Welsh or may wish to exercise their right to do so.

70. If an observer wishes to participate in Welsh but no translator has been arranged, you should adjourn until simultaneous translation can be made available. This may involve you liaising with the LPA or, for virtual events, calling an adjournment whilst you and the Administrator investigate how long it would take to arrange for translation to be provided. (NB this approach applies only to events where you may permit observers to participate on the day, but excludes events where participation is by prior invitation only, e.g. LDP examination hearings).

71. If simultaneous translation has been arranged, in your opening you should ask the translator to introduce themselves and explain how things will work. Make it clear to participants that if they wish to speak, they should raise their hand and wait to be invited to contribute, to assist both you and the translator.

Covering other essential items

72. Example scripts for events are provided at **Annex F** (in-person hearing), **Annex G** (virtual hearing) and **Annex H** (inquiry). However, provided that you cover the essential items these can be adjusted to suit your own style and the case.

73. It is best to deal with factual matters first before moving onto the main issues, other matters and then conditions. Any costs applications should be heard at the end.

74. The essential items are:

- **Preliminary matters**: The appeal before you (address and description of development) and that you have been appointed by the Welsh Ministers. Check that everyone can hear you. Establish whether the parties wish to speak in Welsh and if so that translation facilities are provided. Deal with emergency procedures, mobile phones and timing of breaks.
- **Appearances**: Take the names of those who intend to speak (at inquiries ask advocates to specify who is instructing them and witnesses they intend to call). It is not necessary to take the names of people who intend only to observe. However, if they subsequently decide to speak, you should make a note of their names for your records only. Appearances should no longer be listed in the decision. Note that any interested parties observing the event may speak if they wish, but at your discretion and only on the matters you have identified.
- **Notification letters:** Make sure that you have a copy of the LPA's letters of notification of (1) the appeal and (2) the time, date and place of the event and the list of those to whom these were sent.
- **Representations**: Note those you have received and, if necessary, allow the main parties to check they have the same copies.
- **Inquiry proofs of evidence & statements of common ground (SOCG):** At inquiries, note the full statement of cases, proofs and SOCG that you have received, and any summaries. Are spare copies available that can be made available for other people who are present?
- **Plans**: Clarify which plans were before the LPA when it made its decision and the status of any other plans (superseded, illustrative or submitted with the appeal?). The Regulations require the case to be determined on the basis of the plans on which the LPA made its decision and amendments are not allowed.
- **Late evidence:** Explain your approach. Regulation 11 prohibits the appellant from raising any matter not before the LPA at the time it made its decision unless it could not have been raised before that time it not being raised before that time was a consequence of exceptional circumstances. If you are accepting new evidence, keep a record, giving each document a sequential reference number.
- **Procedure:** At hearings, make it clear to participants that it will take the form of a structured discussion which you will lead and that there is no need for anyone to repeat comments which have already been covered by other participants. For inquiries, explain the order and format. Ask the advocates to supply estimates for evidence in chief and cross-examination, using the programme at **Annex I** to note them down. Check that the inquiry will be completed in the allotted time, seek advocates' assistance to ensure this, and summarise the draft timetable.
- **Conditions and planning obligations**: Explain that there will be a discussion about conditions (and planning obligations, if relevant) but that it will be without prejudice to the outcome of the appeal.
- **Site visit:** Mention that you have seen the site and will make arrangements to visit again at the end of the event (or midway through for longer events).
- **Costs**: Explain that you are not inviting any costs applications but, that if there are any, they should be made at the venue before the site visit. Note

any applications for costs already received. Also explain that you have the power to initiate costs.

- **Main issues and other matters**: Refer parties to the agenda. Third parties may wonder why certain matters are not being addressed at the event and you should state that although other matters will not be discussed that you will have regard to them in your decision. It will reassure participants and observers if you list matters being dealt with through written submissions which are of concern to local residents. Ask the parties if they agree with your identification of the main issues. Note any disagreement but you should not agree to discuss matters you have indicated that you will address through written representations.
- **Procedural matters:** Seek clarification on anything which is uncertain (eg the description of development or, in outline applications, which matters are reserved).

Key principles at an event

75. It is essential to make sure that everyone has the chance to consider and comment upon evidence which you might rely on in making your decision. Consequently, all potentially important issues relevant to the matters identified to be addressed should be identified and discussed at the event. If necessary, this may involve allowing an adjournment so that the relevant party (or parties) can consider their response. This could apply if one party raises a new argument or introduces new evidence relating to one of the identified matters. New matters must not be introduced.

76. Ensuring fairness to all parties is a particular challenge where parties are participating in an event via different means. This will particularly be the case at blended events, but the issue may also arise at virtual events if some parties keep their camera on and others opt to participate only via an audio channel. In these circumstances:

- If there are likely to be a significant number of parties in a hearing session contributing via different means, arrange for an event administrator to assist for the duration of the event.
- At all times, keep a list in front of you of the names of all event participants and the means by which they are appearing.
- When opening a hearing session, emphasise the need to use virtual or physical ‘hands up’ signals to request to speak; and keep track of the order of these, being careful not to prioritise in-person participants over virtual (you may ask the event administrator to do this if there are several parties).
- If any parties are participating by phone, ask them to press their keypad or state “Hand up” to signal a wish to speak.
- Make any necessary adjustments for ‘less visible’ participants; e.g. by regularly checking if they are content and have anything to contribute.

Notification letters

77. There should be two notification letters – the first about the appeal (Reg 15) and the second about the event (Reg 29 or 42). Often, only the first letter is submitted in advance and so you will need to ask for the second letter before or at the event. Check that the copies of the letters you receive from the LPA are correctly dated, relate to the appeal and have been sent to the correct people.

78. If the correct notification has not taken place you will need to decide whether to adjourn the event to another date in order to allow it to be carried out. You will need to do this if you consider that there is a significant risk that the interests of an interested party would be prejudiced because they did not know about the appeal, only found out about the appeal substantially less than the 4-week event notification period or were not notified of the event. Seek the views of the parties at the event and consider the circumstances.

79. Be pragmatic. A breach of the 2017 Regulations does not inevitably require an adjournment to carry out further publicity. You are looking to see whether any party has been unreasonably disadvantaged. For further advice, see 'Rulings' below.

Audibility issues

80. If someone advises that they cannot hear the discussion:

- At virtual events, check that they have turned up the volume, suggest that they wear a headset, or ask them to try turning off their video.
- At in-person events, invite them to sit closer where they can more clearly hear you and the main parties.

81. Ask parties to speak up if others cannot hear. If audibility seems to be a continuing problem, consider an adjournment to resolve technology issues, arrange for a PA system, or tackle the issue of an ongoing noise source.

82. If simultaneous translation between Welsh and English has been arranged and technology issues arise, adjourn the event for sufficient time to enable the issue to be rectified.

83. Some Muslim women may wear a veil (niqab) as part of their religious beliefs and this should be respected. The wearing of a niqab is unlikely to affect the running of an event, but if the person cannot be heard by others, you may need to ask them to speak up.

Accommodating needs and making reasonable adjustments

84. No-one should be disadvantaged at an event. You must take action to ensure that all parties at an event are able to participate on equal terms.

85. S20 of the Equality Act 2010 imposes a duty to make reasonable adjustments for people with disabilities. S149 makes it clear that compliance with the Public

Sector Equality Duty may involve treating some people more favourably than others, including taking steps to take account of persons' disabilities. In practical terms this means, for example, arranging for wheelchair access, a hearing loop or a sign language interpreter at the earliest opportunity, adjourning the event if necessary.

86. You may also need to check that people are able to see documents being referred to. If necessary, arrange for the information to be provided by other means, for example by having plans explained verbally.

87. Evidence is not needed for you to make reasonable adjustments. If, for example, someone is experiencing anxiety, take them at their word and seek alternative means of participation, e.g. via a proxy or written statement.

88. If participants do not have a good understanding of English or Welsh, or have poor literacy skills, adjust your approach; for example, by allowing assistance by a family member, friend or interpreter; and/or accepting written representations.

89. You should also regularly check that people understand procedures and any jargon being used.

90. The Equality Act 2010 (Code of Practice on Services, Public Functions and Associations) (Commencement) Order 2026 and accompanying code of practice provides advice on interpreting Part 3 of the Equality Act 2010 in terms of public authorities' duty not to discriminate, harass or victimise when carrying out public functions. This would include Inspectors conducting hearings and inquiries.

Dealing with the press, filming and recording

91. Members of the press are entitled to observe Hearings and Inquiries. You should ask in opening if there are members of the press present and, if so, advise them to direct any queries to the WG Comms team. Genuine journalists should be familiar with WG policy with regard to contact with the media but you may give out the general press office number is 0300 025 8099 which you can give to journalists if asked.

92. It is PEDW policy not to permit filming or recording of an event but it is permissible to allow the venue to be filmed before the Hearing or Inquiry opens. It is a matter for you with regard to whether you are present but if you are, you should be in position as you would be for the event.

93. You should say on opening that it is PEDW policy that events are not filmed or recorded. If challenged point out that the event is open to the public to observe and participate and so is transparent. Further that filming and recording can be disruptive, deter people from speaking and raises serious data protection issues.

Note-taking

94. You need to record the discussion and your note will probably be the only record of what took place. However, you do not need to keep a verbatim account. Instead focus on the main points made, particularly those which have not previously been set out in writing. If necessary, ask the parties to slow down or repeat a point if you wish to make sure you record it accurately.

95. You need to strike the right balance between engaging with the parties and taking notes. Bear in mind that your notes may subsequently be disclosed (see 'Role of the Inspector' chapter). A more thorough note will be needed if a costs application or legal submission is made orally (see advice below).

Site visits during or after the event

96. The 2017 Regulations do not make specific provision for leaving a hearing or inquiry open to discuss matters on site. Consequently, site visits should be conducted in the same way as for written representations cases (see 'Site Visits' chapter for further advice).

97. You should normally conduct the visit after the close of the event, but you might wish to hold the site visit during the event if it would help you to understand the discussion, the event is unlikely to be completed before it gets dark, or to give advocates time to prepare written closing statements. If so, adjourn the event to hold the site visit, and resume the event after the visit (see below).

98. At in-person events, if you travelled to the venue by public transport, it may be expedient to accept a lift from one of the main parties. If so, you must ensure that representatives of both the appellant and the LPA travel with you in the vehicle. Ensure you explain this to any interested persons.

Adjournments

99. Try to keep adjournments to the minimum necessary. However, short adjournments may be necessary and can be helpful. For example:

- If it would be reasonable to allow a party to read new evidence and to prepare their response (or if you need to read it).
- To allow the parties to discuss and seek agreement on a particular matter – for instance, the wording of conditions.

100. Adjournments may be requested by the parties or offered by you. Remember that unrepresented appellants may not be aware that they can ask for an adjournment.

101. All adjournments must be to a definite time and place. This should be announced before adjourning. After an adjournment, the event is "resumed", even if on the following day.

102. An adjournment to another day will be necessary if the event over-runs. A change in circumstances or new evidence may also necessitate an adjournment to a different day, for example, if natural justice requires that parties are given adequate time to respond.

103. If adjourned to a future date, check the availability of the venue (if necessary) and the parties' availability first. Once agreed, inform the Case and Chart Officers as soon as possible, including wording for written notification to the parties explaining what has happened and what the next steps will be.

104. You may be unable to agree a resumption date at the event. This situation is undesirable because of the risk it poses to the target date. If it is unavoidable, contact the Case Officer and ask them to liaise with parties to agree a resumption date. At in-person events, ask anyone who wishes to be notified of the rearranged date to add their name and email address to a blank sheet of paper (for forwarding to the Case/Chart officer).

105. During adjournments it is important that you do not engage, or are perceived to be engaging, in discussions with individual parties (see 'Role of the Inspector'). In virtual events, during adjournments you should leave the MS Teams meeting promptly and re-join shortly before the resumption. This will ensure that you are not party to discussions between participants. You should also advise other parties to switch off their cameras and microphones.

Rulings

106. You may be asked to make a 'ruling' (although the party making the request may not use that term). This might for example, be about whether:

- You will accept new evidence or revised plans
- A procedural problem may have led to unfairness which needs remedying
- Whether the appeal or application is valid
- Whether the event should be adjourned for some reason.

107. Ask each party, in turn, for their views. Ask any questions you may have. If necessary, adjourn for a short period to consider the points made. Keep a careful note of any discussion and the conclusions you have announced.

108. It is sometimes advisable to prepare the ruling in writing during an adjournment and read it out to the parties. This would be appropriate where there are legal matters or complex issues on which the appeal may turn.

109. It may not always be necessary to make a ruling at the event. For example, if there is an unresolved dispute as to whether an application is for 10 or 12 dwellings, it might be possible to examine both possibilities at the event and to resolve the dispute in your decision letter.

110. When considering a ruling, bear in mind the following:

- Natural justice: The ruling should not put any party at a significant disadvantage.
- Your own interests: Provided there is no breach of natural justice, a point may best be resolved on the basis of how you may best be helped.
- A breach of the Regulations does not itself invalidate the proceedings or require redress - if no-one is at a disadvantage, the breach is unlikely to be serious.
- A breach of the Regulations in the course of producing evidence does not render that evidence inadmissible – however, you may need to consider whether an adjournment may be necessary to secure natural justice.
- A simple common-sense ruling is more likely to be appropriate than one which is complex or based on complicated reasoning.
- Where possible it is best to reach a conclusion at the event; however, in some circumstances it might be possible or preferable to ensure all possibilities are examined at the event and then to resolve the dispute in your decision.
- Where a ruling is sought that affects the conduct of the event, you must give clear guidance to the parties. It is essential that all concerned understand any ruling you give, even if they are unhappy about its implications.

111. Try to be aware of the precise terms of any relevant legislation. At inquiries, seek the assistance of advocates and invite them to address you on the relevant provisions. One important aspect is the extent to which the 2017 Regulations give you specific powers. Your ruling will carry greater weight if made in pursuance of such a power. In planning cases, Regulations 33 and 45 make it clear that it is for you to determine the procedure. If you receive advice from colleagues, do not say that the ruling has been informed by instructions or advice from elsewhere, as you alone are in control of the proceedings.

112. When a ruling has to be given, if a party persists in objecting, you should advise them that you intend to proceed with the event, but if they have a complaint, they should contact the PEDW office. Alternatively, they would have the option of applying for judicial review or, once the decision had been issued, making a High Court challenge.

Costs applications

113. Irrespective of previously indicated intentions, you must provide parties with a formal opportunity to make a costs application before the event is closed.

114. If a costs application has been made in writing:

- Does the applicant intend to add anything to it, orally?
- Has the written application been provided beforehand to the other party and to you? If not, ensure copies are provided and, if necessary, allow an adjournment for both you and the other party to read it.
- If it was provided beforehand, has the other side responded to it in writing? If so, do they have any further response? If they have not prepared a written response, they should be given the opportunity to respond orally.

- If you and the parties have had adequate opportunity to read/understand the application and any response, these do not need to be read out.

115. If the costs application is made, or added to, orally, the other side should be given the chance to respond and the applicant should then be given the chance to respond to any new points.

116. It is advisable, in the interests of fairness, to offer an adjournment so that a response to a costs application can be prepared.

117. If the costs application and response is made orally, you will need to take a full note. Ask the parties to proceed at a steady pace.

118. Clarify whether the application is seeking a full or partial award. If partial, then what for? Intervene to seek clarification if need be.

119. If both parties make applications these should be heard one after the other.

120. If the event is adjourned to another day, any costs applications should be heard at the end of the resumed event.

Closing the event

121. You must remember to formally close the event. Before you do so it is good practice to check that everyone has said what they want to, that all matters have been covered, that clear arrangements for the site visit have been made, and that you have received all necessary documents.

122. If a participant or observer asks to be notified when the decision is issued, make a note of their name. At in-person events you may also need to take their email address if PEDW does not already have it. After the event, add names and emails of those who have asked to be notified to the Notes section of CRM.

123. In some rare cases you may accept that additional material can be provided after closing, for example a completed s106 agreement where all that is lacking are the signatures. If so, set a firm timetable for it to be received. You should also be clear about any opportunities for the parties to comment in writing on such material. Make it clear that if the material is not received on time, you will proceed to make your decision without it.

124. If you are asked when your decision will be issued, refer to the target date for the decision but add that, if possible, it may be issued in advance of that date.

125. Remember to thank everyone for their attendance and contributions. If at a venue, ensure that you do not leave anything behind.

Dealing with unforeseen issues at events

Late evidence before or during the event

126. Parties may not introduce new matters at or before an event, but they may seek to introduce new evidence on a matter being discussed.

127. If the Case Officer contacts you to ask whether you are prepared to accept late evidence prior to the event, you should respond as soon as possible, and no later than three working days after the date of the query.

128. At the event, it is best to establish early on if anyone intends to submit new evidence or documents (including planning obligations). Doing so means that, if you do accept them, everything can be copied/exchanged at the outset and the need for an adjournment can be considered, helping to avoid disruptions midway through the event.

129. If you decide to accept late evidence, you will need to make sure that both you and both main parties, and potentially other interested parties, have the chance to read and understand it. You should seek the views of the parties on this. You have three main options:

- If the new evidence is straightforward it may be possible to avoid adjourning or, alternatively, you and the parties may be able to read it during a short comfort break or over lunch.
- If the evidence is more substantial, you might need to adjourn for a specific period (say 30 minutes), resuming on the same day.
- If the evidence is complex, substantial and/or technical you might need to adjourn to another day. This could be the case if one of the parties might reasonably wish to seek advice from an expert.

130. In virtual events, if you decide to accept late evidence it should be emailed to the Administrator for exchange. It may be appropriate for the party to share their screen, but they should not do so until you have read the document and checked for personal or sensitive information.

131. You should advise about the possibility of a costs application being made if you accept late evidence, particularly if an adjournment is necessary.

132. In practice, you should usually accept late representations. In the context of an event and before the evidence has been heard, it can be difficult to make an informed decision about the potential relevance of the representation to your decision. Consequently, acceptance can often be the most prudent action to take. In any event, the overriding consideration is to be fair to all parties.

133. Ensure that you keep a referenced list of any documents admitted at the event.

Amended plans and proposals

134. The appeal process cannot be used to evolve a scheme[2]. Once a notice of appeal has been served, appellants seeking to vary an application from that considered by the LPA will be advised the variation is not permitted. Amendments cannot therefore be accepted. The only circumstances in which an amendment may be accepted are the correction of drawing or drafting errors which do not affect the substance of the application, or where it is necessary to ensure consistency in the information contained in the application and the accompanying documents. The decision made on an appeal must always be made in respect of the proposal and plans considered by the LPA. Should appellants wish to amend or revise a proposal, this should be done by making a new planning application to the LPA. See Annex 1 to Approach to Decision Making for additional guidance.

Missing documents

135. If a party believes that they have submitted a document which you have not seen, ask them to provide you with details of the document name, date and manner of submission. Adjourn the event and contact the office to find out whether there is any record of that document having been submitted.

136. If the office confirms that the document was submitted, but was not added to the casefile, reopen the event, explain the error, and proceed as per the advice under 'Late evidence before or during the event'. If there is no record of the document having been submitted to the office, you will need to take a view as to whether a genuine error has occurred, and if so whether to accept the document as late evidence.

137. If an interested party claims they are prejudiced by not having been able to view a submission document on the casework portal, consider the nature of the information and whether it would genuinely be likely to put them at a disadvantage. If you consider that prejudice may arise, adjourn the event for as long as is necessary for that party (or parties) to read and understand the information. If the information is considerable, this may be to another day.

If parties stray from matters being discussed at the event

138. If a participant deviates from the notified matters, you should interrupt them and make it clear that the Regulations do not allow new matters to be raised at an event. If a new matter is raised before you can prevent it, you should not invite oral responses from other parties. If the party persists in raising the matter, and it is genuinely 'new', seek other parties' views as to the appropriateness of allowing written submissions to be made after the event, and an opportunity for others to

[2] Sections 78 (4BA)-(4BB) and 195(1DA)-(1DB) of the TCPA and Article 26C of The Town and Country Planning (Development Management Procedure) (Wales) Order 2012; Section 21(4A)-(4B) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Regulation 12B of the Planning (Listed Buildings and Conservation Areas) Regulations 2012; and Section 21(3E)-(3F) of the Planning (Hazardous Substances) Act 1990 and Regulation 13A of the Planning (Hazardous Substances) Regulations 2016.

comment. However, you should advise about the possibility of a written costs application being made if this course of action is consented to.

Video evidence

139. You may be asked to view video evidence (e.g. showing highway conditions or a virtual reality model of the proposed development). If so, you should make sure that all those at the event are able to view the recording and have the opportunity to comment on it.

If the venue for an in-person event is not large enough

140. No-one should be precluded from attending an event even if they do not want to speak. If it becomes clear that an event venue is not large enough, you will need to adjourn to allow the LPA to find a more suitable place to hold the event, if possible on the same day.

141. Open the event and seek the views of the main parties. Do not accept a suggestion that people should be admitted on a first come first served basis or that attendance should be prioritised in any way.

If a main party is involuntarily absent or someone is taken ill

142. If one of the principal parties is not present at the appointed time, open the event. Establish who is there and explain the position. It is possible that the person is ill, having technology problems, delayed for some reason, travelling or have gone to the wrong venue.

143. If the appellant is missing, ask the Event Administrator, LPA or appellant to try to contact them, depending on the circumstances. At an in-person event, if the appellant/LPA does not have their contact details, adjourn and ask a Case Officer to try and contact the missing party.

144. Adjourn initially for 15-20 minutes. More than one adjournment may be needed to establish the position. If it is feasible, allow a reasonable period of time for the missing party to arrive so that the hearing can continue on the same day.

145. If there is no prospect of the missing person attending and you have no reason to believe that they have behaved irresponsibly, explain that you do not intend to continue with the event without one of the principal parties present (because to do so could be unfair) and will therefore have to adjourn it. If you consider that an appellant's absence constitutes irresponsible behaviour, follow the advice set out in the next subsection.

146. In most cases the first preference will be to try to rearrange the event. Explain that you will not be able to arrange a new date as one of the main parties is missing and that the office will be in contact subsequently. Adjourn the event. Afterwards, email the Case Officer, including wording for them to write to the parties to explain what has happened and what the next steps will be. Ask the Chart Officer to adjust your programme to accommodate a reconvened date.

147. If one of the principal parties falls ill during the proceedings, you may need to adjourn the hearing, including if necessary to another day. This will depend on the severity of the illness and the demands of the event. The same will apply if you fall ill.

148. If the event has to be re-arranged, you should hear any application for costs at the end of the re-arranged event.

If an appellant's absence appears to be deliberate

149. If you have reason to believe that the appellant is deliberately absent and has therefore behaved unreasonably and in a manner which is causing undue delay in the process, the case of the LPA and those of other parties present may be heard, as may any applications for costs.

150. First, ask the parties present if they wish to make costs application. If it is possible to make an unaccompanied site visit, the event should then be closed.

151. If an accompanied visit is necessary, agree a time and date with the LPA and any other parties who wish to be present. The date should be 4 to 6 weeks ahead to allow time for contact to be made with the absent party. The event should then be closed.

152. You should contact the case officer with the relevant site visit details and inform them that you wish to invoke the process under section 79(6A) of the Town and County Planning Act 1990 (TCPA). The case officer should write to the parties with the site visit details, drawing the absent party's attention to section 79(6A).

153. If the appellant fails to attend the site visit or permit access, the site visit should be aborted. If a costs application was made at the event, or any post-event costs correspondence received, write a Costs Decision and send this to the case officer. The case officer will then distribute a letter dismissing the appeal and appending the Costs Decision.

154. Section 79(6A) does not apply to enforcement cases. In such cases, rather than the case officer dismissing the appeal by letter, they will write to the appellant inviting further representations on the issue and any costs application. You would then proceed to determine the appeal on the basis of the evidence. If the appellant has not allowed entry to check vital measurements, he/she has failed thereby to satisfy you on the balance of probability that his/her own asserted measurements (if any) are correct and accordingly has failed to discharge the onus of proof which is on him/her to demonstrate that the development is lawful and the appeal dismissed with or without costs. However, section 324 of the TCPA does provide for rights of entry.

Technology problems at virtual events

155. Virtual events may be disrupted by technology but, as with in-person events, natural justice is paramount. In your opening, ensure that you ask participants to inform you if they leave the event, to avoid uncertainty over whether they have lost connection. Advise participants that if they do lose connection, to first switch off and on again and try to re-join the event. If they experience buffering issues, advise them to try turning off their camera.

156. If a party appears to lose their connection, pause for a couple of minutes to see if they return. If there is no sign of them, call a brief adjournment (e.g. for 5 or 10 minutes) and contact the Administrator to see if they can re-establish connection. If that fails, upon resuming the event:

- If a main party's connection has been lost, state that the event will be adjourned to a time and date to be confirmed in due course by the office.
- If it is the connection of an interested party or observer which has been lost, state that you will permit that interested party/observer to provide a written statement by a certain date, and that, if necessary, you will seek the views of the other parties on that statement before making your decision.

157. If you need to adjourn to another day, contact the office as soon as possible with any instructions for rearranging the event. Consider whether it is possible to proceed with the site visit as planned or whether this should also be rearranged, and ensure parties are informed of your intentions.

Withdrawal of the appeal

158. If this happens on the day of the event, it is good practice to open at the appointed time and announce that the appeal has been withdrawn. Doing so will ensure that any interested parties are made aware that it has been withdrawn. If there are no interested parties, you do not have to formally open but the withdrawal of the appeal must be confirmed to you there and then in writing.

159. If the event has opened, the appellant can withdraw the appeal verbally at any time by announcing it verbally. Again, you should seek confirmation in writing.

160. If the appeal is withdrawn during an adjournment to a different day the event can be closed in writing. You will need to make sure all parties are informed. However, if the appeal is withdrawn very close to the day of a resumption, it may be necessary to resume the event briefly and then close it in person.

161. If any party seeks to apply for costs, refer them to the guidance on the award of costs in the Development Management Manual, which advises that any applications should be made within 4 weeks of receiving confirmation that the appeal has been withdrawn.

Challenges to the validity of an appeal or application

162. Listen to the arguments put to you. Unless the interests of a party have been seriously prejudiced you should continue with the event. A breach of Regulations does not itself invalidate the proceedings or require redress. If no-one is at a disadvantage, the breach is unlikely to be serious.

163. If objections persist you may need to advise the person making them that, although you intend to continue with the event, they may also make their concerns known by writing to the office straightaway.

Requests for recovery of jurisdiction by the Welsh Ministers

164. In the case of a transferred appeal, you may be asked to refer the case to the Welsh Ministers. If so, note the arguments put forward and inform the parties that consideration will be given to seeking the Welsh Ministers' ruling as to whether jurisdiction should be recovered. After the event, the matter must be brought to the attention of the office immediately so that a decision on recovery can be made.

Evidence under oath or affirmation

165. At inquiries, Inspectors have the statutory authority to take evidence on oath (or under an affirmation), or to require the person examined to make a declaration of the truth of the matter in respect of which he or she is being examined. However, no such power exists at hearings. If, at a hearing, it becomes clear that evidence on oath or under an affirmation is necessary to resolve disputed facts, you will need to abort the event and arrange for an inquiry to be held.

166. Hearing evidence on oath is more common in enforcement and LDC inquiries. **Annex N** provides more guidance on oaths. At most section 78 inquiries it is unlikely to be necessary unless factual evidence is disputed.

Withdrawal of a sole objection to an order

167. In the case of compulsory purchase and similar orders where you are told that a sole or sole-outstanding objection has been withdrawn, the event should be opened in the usual way (as the event is about the order itself, has been advertised and third parties may wish to be heard). The extent to which evidence needs to be given in support of the case stated by the LPA is a matter for your discretion in the light of the particular case. You will make a recommendation in the usual way.

Hearing evidence in private

168. Section 321 of the 1990 Act requires that events[3] are heard in public and documentary evidence is open to public inspection. An exception to this is where public disclosure would be contrary to the national interest because it related to

[3] S321 uses the term 'planning inquiry' but the same principle would apply at a hearing.

national security. In such cases the Welsh Ministers can direct the hearing of evidence in private (in 'camera'). If this arises seek guidance.

169. Commercial confidentiality or individuals' privacy is not, by itself, a sufficient justification for an in-camera session. Such requests should be dismissed.

Unacceptable behaviour and references to individuals' race, religion etc.

170. Regulation 33(7) allows you to refuse evidence where it would be irrelevant or repetitious. However, Regulation 33(8) states that if you refuse to permit oral evidence, the person may submit the evidence in writing before the close of the hearing.

171. At a virtual event, if a party refuses to stop speaking you should warn them that if they do not stop, they will be muted and their camera switched off. In extreme scenarios, they may be ejected from the event by the Event Administrator.

172. Occasionally the users of a proposed development may share particular 'protected characteristics' under the Equality Act 2010 which may be determinative to the outcome of the appeal. If so, you should point out to parties that the appeal will be considered on its merits, as relating to the use and development of land, as well as with regard to the Public Sector Equality Duty.

173. In most cases, however, verbal or written references to protected characteristics, such as an individual's race or religion, will not be appropriate. If anyone makes a potentially defamatory or discriminatory remark (i.e. the language used has a clear or malicious intent), you should promptly issue a warning and take decisive action. **Annex K** provides more advice.

174. If there is a significant risk of offensive (e.g. racist) comments being made at an event, make it clear in your opening that this will be unacceptable. If potentially offensive language is being used unwittingly, explain why it is offensive, and state that it must not be repeated. If a document submitted at an event contains offensive language, it should be returned immediately with an explanation that the representation is unlawful and cannot be considered. If anyone is wearing something with an offensive (e.g. racist) symbol or message, ask them to remove it or cover it up.

After an event

Late evidence or unforeseen issues

175. Regulation 12 states that you may disregard any written representations, evidence or documents received after the event has closed. However, if, after the close of the event, you propose to take new evidence into account which was not raised at the event you should afford those entitled to appear at the event an opportunity to make written representations. You should respond to any queries

from the Case Officer as to whether late evidence received after the event should be accepted within 3 working days of the date of the query.

176. In some cases, unforeseen issues may arise after the event has closed but before you have made your decision. This could include a change in national or local planning policy or a relevant appeal decision[4]. These issues may be brought to your attention by one of the parties or they may be apparent to you for other reasons. In either case, if the issue is one which might reasonably have a bearing on your decision, you should:

- accept the evidence offered (or proactively raise the issue) and allow the parties to comment in writing.
- consider if the event should be re-opened.

177. It is possible that immediately after closing you are asked to listen to someone who has not been heard. You can reduce the risk of this happening by double-checking before you close the event.

178. If someone does indicate a wish to be heard after the close of an event, and everyone is still present, you can ask the parties if they agree to briefly re-opening the event. However, if this course of action is not possible (e.g. not everyone is present) then you should not hear further representations. Instead, ask the person who wanted to speak to send their representations to the Case Officer by a certain date. Then make a note on CRM that further representations are expected and will need to be exchanged with other parties.

Writing the decision/report

179. Your approach to writing the decision/report after an event is likely to be similar to cases considered by written representations. However, if a specific point was only raised at the event or if particular matters were agreed or conceded, then this should be mentioned.

180. At the end of your decision/report you will need to add lists any documents, plans and photos handed to you during the event (with unique references). Lists need to be comprehensive but it is not always necessary to refer to every individual document (e.g. “bundle of documents submitted by Mrs Jones”).

181. The LPA’s letter(s) of notification should only be listed if provided at the event.

[4] In *Wainhomes v SSCLG* [2013] EWHC 597 the Inspector declined to consider two recent appeal decisions. As these were relevant to the main issues and may have led to a different conclusion, they should have been taken into account.

Hearings

The 'inquisitorial burden'

182. In a hearing, the Inspector has responsibility for examining the evidence. At the end of the hearing you must be satisfied that all the points needed to make a properly informed decision have been adequately tested. See *Dyason v SSE & Anor* [1998]:

183. Whatever procedure is followed, the strength of a case can be determined only upon an understanding of that case and by testing it with reference to propositions from opposing parties. At an inquiry, cross-examination is undertaken mainly by the opposing party. At a hearing, however, the responsibility to rigorously examine the evidence falls to the Inspector. In doing so, the Inspector must ensure that they not only listen to what parties have to say, but also assess those statements for their own worth and in relation to opposing contentions. This is known as 'discharging the inquisitorial burden'.

184. There is a danger that the perception of hearings being more 'relaxed' than inquiries may lead to a less thorough examination of the issues. You must guard against this. A relaxed hearing must not be so informal so as to dilute the rigorous examination which is essential to resolving difficult questions. Such a hearing would not be full and fair to the parties.

185. However, while you have a duty to conduct an inquisitorial hearing, you are entitled to rely on the case put forward by a professionally represented appellant. There is no need for you to root out a case which an appellant had failed to put, especially when represented (Francis v SSCLG & LB of Greenwich [2008]). The same principle applies to the case put forward by the LPA.

Running the hearing

186. Some general points:

- Be authoritative, firm and proactive - make it clear from your demeanour and approach that you are in charge (but without appearing arrogant or dismissive).
- You should always lead the discussion. If the parties start a dialogue between themselves, stop them. However, you can allow one party to put a question to another if you feel this would be helpful.
- Formal cross-examination must not be permitted. If you consider this is necessary, you may need to seek the parties views on holding an inquiry (see earlier advice on 'Changing the procedure' and 'Rulings').
- Unrepresented appellants may not be familiar with hearings. You may need to be proactive making adjustments to ensure that they are engaged.
- Ensure that you proactively involve interested parties and make sure they have their say. Don't let the hearing become a three-way event between the appellant, LPA and you. Ask the main parties to explain any planning jargon or technical terms.

- Do not allow one party to dominate the proceedings.
- Maintain firm control: stop any distracting, disruptive or disrespectful behaviour quickly.
- Keep the proceedings moving on at a reasonable pace. Encourage participants to focus on the matter at hand and politely halt any repetitious contributions. If you have heard all you need to, say so, and move on to the next agenda item.

187. In order to successfully discharge the 'inquisitorial burden', **you should**:

- Try to get the parties to agree on factual matters and then focus on the key differences between them.
- Phrase your questions neutrally. Try to keep them short and simple. Only ask one question at a time.
- Make sure you understand the evidence and the parties' position on it, particularly where it is technical or complex (e.g. noise, traffic, ecology, financial viability). Seek clarification where necessary.
- Make sure you explore everything you might later rely on in your decision; you must raise any substantive matters that the main parties have not fully covered in their statements of case.
- Ask the main parties to respond to important points made by the other party.
- If someone disagrees with an acknowledged expert on a subject, ask them to explain why they have reached that view.
- If the LPA confirms that it no longer wishes to defend a reason for refusal, ask them to explain their reasons and allow interested parties to comment.

188. During the hearing you will be seeking to understand if a proposal would result in significant harm or not. In doing so you will need to consider how the arguments made by the parties stand up when tested. The burden of proof generally lies with the party who made the point. Examples of questions you might ask include:

- Which development plan policies are relevant? Are they consistent with PPW/advice in relevant TANs? Does the proposal comply with policy? What is the aim of the policy?
- Would the proposal cause harm? For example - How should the character and appearance of the area be defined? Would the building fit in or would it appear incongruous in relation to its surroundings? Why? Where would it be seen from? Could any potential harm be overcome by conditions?

189. **You should not** make the case for any of the parties or say anything that might indicate you agree with one party on a contested issue. You should also keep your questions neutral and **avoid leading questions** (which indicate that you know what the answer might be, and could usually be answered with a 'yes' or 'no'). Try to ask questions which provoke a thoughtful answer, e.g.:

Leading question ☒	Neutral question ☑
There would be overlooking from that window, wouldn't there?	In your view, to what extent would overlooking arise from that window?
The limited visibility would cause a hazard to road safety, wouldn't it?	How would the dimensions of the visibility splay compare to those set out in the TAN?
The evidence confirms that there would be harm to bats, doesn't it?	In relation to effects on bats, to what extent do you agree or disagree with the conclusions of the evidence?
I assume that you know the building next door is listed?	Could you clarify which buildings in the immediate vicinity are listed?

190. Notwithstanding this, if a matter is particularly vexed, you may need to show your hand to help move the discussion forward. You can do this by indicating to the party the direction in which you're leaning and giving them the opportunity to persuade you otherwise.

191. There are two conventions which have previously been applied in hearings – that the appellant should have the last word and that the main parties should be invited to make final or closing comments. However, neither is specified as a requirement in the Regulations or procedural guidance. You are not obliged to follow these conventions, but you may if you feel it would be helpful.

192. You will also need to deal with conditions or planning obligations. These are usually discussed as a separate agenda item, although they may be wholly or partly covered in relation to an earlier discussion about a main issue or other matter. For conditions you will need to consider whether any suggested before or at the hearing (by any party) meet the 6 tests in Circular 016/14, even if they have been agreed by the main parties. For planning obligations you will need to assess whether it is properly framed as an obligation for the purposes of section 106, whether it complies with the 3 tests (Circular 13/97 and CIL Regulation 122), and whether it would be effective. Ideally an engrossed agreement will be before you at or before the event, but if not see 'Late evidence before or during the event'.

Legal representation

193. Regulation 31(3) allows that a person who is entitled to appear may be represented by another person. It is up to the party to decide who represents them and this may be a solicitor or barrister. However, this should not affect how you run the hearing. If necessary, you can remind the parties that there will be no cross-examination and that any questions should be put through you.

Inquiries – key principles and order of procedure

194. The guidance below focusses on smaller and more straightforward inquiries. Advice relating to more unusual and complex procedures is provided in the following annexes:

- **Annex M** – Pre-Inquiry Meetings
- **Annex P** – Long inquiries
- **Annex Q** – Assessors appointed to assist the Inspector at inquiry
- **Annex R** – Inquiries dealing with called-in applications
- **Annex S** – Reopened inquiries

195. Regulation 41 allows the Inspector to prepare a timetable for inquiry proceedings, including for the submission of written statements of evidence and summaries. It also allows the Inspector to set or adjust the timetable at any time, including at the inquiry.

Participants in an inquiry

196. Regulation 38(1)(c) allows the Inspector to invite 'any person' to participate in an inquiry, alongside the appellant and LPA. If an interested person has sought an active part in the inquiry, there will be a letter on the file requiring a statement of case. They will often be legally represented.

197. Only invite a party to formally participate in an inquiry if necessary for the formal presentation of evidence. Other 'interested persons' attending the inquiry may be able to be heard in a less formal manner, at your discretion during the event.

Written statements (or proofs) of evidence

198. An appellant is required to provide their **full statement of case** when making their appeal. The LPA and other interested parties must do the same within 4 weeks of the start date. The Procedural Guide Wales provides more detail about what should be included.

199. **Written statements (or proofs) of evidence** contain the evidence of witnesses at an inquiry. The witnesses will represent the appellant, LPA and 'any other person invited to take part in the inquiry' (Regulation 38(1)(c)).

200. As per Regulation 44:

- Proofs of evidence should be provided 4 weeks before the inquiry.
- A summary is required unless the proof is less than 1,500 words.
- If a summary is provided, only the summary should be read out at the inquiry (unless the Inspector permits otherwise).
- Cross-examination can be on any part of the proof, even if only the summary is read out.

201. As the case for the appellant, LPA and other invited parties should be set out in the full statement of case, the main purpose of a proof of evidence is to allow expert witnesses to:

- Marshal previously provided evidence in a way which is convenient to the presentation of their case at the inquiry, and
- Give their opinion on the evidence provided by other parties in their full statements of case.

202. There is no reference in the Regulations or Procedural Guide to **supplementary/rebuttal proofs** or **statements of common ground**. Although not necessarily encouraged, rebuttal proofs or statements of common ground may be helpful, particularly if they deal with points that could reduce the need for cross-examination and so reduce the inquiry time.

203. If any are offered before the inquiry, the case officer will check with you whether they should be accepted. If they are offered at the start of the inquiry, consult the parties as to whether they should be accepted and, if necessary, adjourn to allow everyone to consider them. Costs applications relating to the receipt of such documents should be dealt with in the normal way.

Pre-Inquiry Notes

204. Inquiry proceedings can benefit from a Pre-Inquiry Note (PIN), circulated alongside the draft agenda. An example of a PIN is included at **Annex L**.

205. If you issue a PIN:

- Make it clear which of the main issues are being dealt with via the hearing, inquiry or written representations procedures.
- Prepare a list of questions (on procedural matters, main issues and any other relevant matters) that you would like the parties to address in advance of the event. You should not raise any issue at the event that will come as a surprise to the parties. Everything critical should be covered in the note.
- Be clear about the running order. For issues being dealt with through cross-examination, would it be more effective to group the witnesses by party, or by topic? If there are topic-specific hearing sessions, when should these be held and in what order?
- Are there any other persons likely to want to speak? For multi-day events, might they want to be heard early on?
- Do you anticipate any procedural problems which could be rectified in advance of the event? (e.g. complaints about the venue, likely requests for postponements or adjournments.)
- Are there any adjustments needed to accommodate participants virtually, particularly at blended events?

Pre-Inquiry Meetings

206. Regulation 40 allows the Inspector to hold a pre-inquiry meeting (PIM) with a view to ensuring that the inquiry itself is conducted efficiently and expeditiously. PIMs are purely procedural and does not go into the merits of the case.

207. It is up to the Inspector whether to hold a PIM. The benefits of a PIM are:

- confirming the matters to be addressed at the Inquiry, matters that may be discussed in a hearing/round table session and those matters to be dealt with by written representations,
- Matters on which you would like evidence to focus (e.g. a specific aspect of technical data or certain heritage assets among several identified),
- setting out how you wish the evidence to be presented and the timetable for receipt of any outstanding documents / evidence,
- seeking the parties' views on, or requesting action on, any matters about which you have concerns (e.g. missing documents or venue capacity).

208. In the past PIMs would normally be arranged for inquiries with six or more sitting days but there are likely to be advantages for holding PIMs for shorter events. If you are unsure, discuss with your Inspector Manager.

209. If you determine that a PIM would be helpful, ensure that 3 days is charted for preparing, holding and writing up the event. Regulation 40(2) requires at least 2 weeks' notice of a PIM to be given to the appellant, LPA and any invited party. You should notify interested persons of the event, particularly if there is substantial public interest. You may also wish to invite named representatives of societies or groups who have made representations but have not indicated whether they intend to appear at the inquiry itself. As a public meeting, simultaneous translation should be arranged.

210. Regulation 40(3) allows a further pre-inquiry meeting to be held. This may be necessary for more complex inquiries which may involve several developers, technical specialists or where there is large-scale public interest. You should consider the necessity of any further meetings and specify dates in liaison with the Chart Officer.

211. Smaller PIMs may be relatively informal, although for large-scale public events a more business-like approach will be needed to ensure efficiency. In all circumstances you should not discourage questions, even from those not directly involved. A few minutes covering a procedural matter at a PIM may save hours of inquiry time and avoid potential frustration and acrimony.

212. **Annex M** outlines a PIM agenda. It is better for matters such as main issues and the nature of the evidence to be discussed before timetabling is considered. The matters covered in that discussion will assist inexperienced participants in forming a realistic view about their contribution to the timetable.

213. Immediately following the PIM, you or the Programme Officer should prepare notes of the meeting setting out the matters agreed, including procedural arrangements and inquiry timetable deadlines for receipt of proofs of evidence

and documents. The file should then be returned to the case officer for the notes to be sent to the parties invited to the PIM and to anyone else who asked for a copy.

Order of procedure and general approach

214. Under Regulation 45 the Inspector must determine the order of procedure at an inquiry. An indicative programme is set out at **Annex I**. Much of the running order is similar to a hearing, except that:

- During the **opening**, you should confirm who the witnesses are, the order in which they will be heard, and whether anyone else wishes to speak.
- There then follows **opening statements of the main parties** (usually the appellant first, followed by the LPA and then any other invited parties).
- The **formal presentation of evidence**, including cross-examination is the substantive part of the inquiry (usually in this order: LPA; invited parties; other interested persons opposing; appellant; any interested parties supporting).
- **Any other 'interested persons' who wish to speak** may be heard at the Inspector's discretion. It is normally best to hear from opposing parties immediately prior to the appellant presenting their case (i.e. after LPA/invited parties).
- **'Round table' (i.e. hearing)** sessions led by the Inspector often follow, covering matters such as conditions.
- After all the evidence has been heard, **closing submissions** are made (beginning with the LPA, then any statutory/invited parties and ending with the appellant). This usually occurs before applications for costs are heard.

215. Inquiries are quasi-judicial in nature. Witnesses giving evidence are introduced by their advocates; there then follows a set procedure for giving evidence in chief, cross-examination and re-examination. Planning and Environment Bar Association (PEBA) has published guidance setting out good practice guidance for barristers on dealing with experts at planning and similar inquiries which you should familiarise yourself with.

216. This process is led by advocates, but it is important that you demonstrate that you are in charge of the proceedings. Avoid being tentative, passive or quiet. Direct the transition between different stages of the inquiry – for example:

- "Mr A – you may now cross-examine Mrs B"
- "Mrs C – would you now call your second witness"
- "We will now move on to the third main issue, which we are going to deal with in round-table format"

217. You must retain an appropriate degree of formality, but you can smile and inject a degree of humour if you think it is appropriate – but do so carefully and avoid referring to controversial subjects or making light of the issues at the inquiry.

218. It is for you to decide whether the advocates sit or stand during the inquiry. In a small venue, with a small number of people, it is usually best that they stay seated. However, in larger venues with more people attending it may be preferable for them to stand during the formal presentation of evidence so that people can see who is speaking.

219. Witnesses should generally be asked to sit at the witness table. However, see the advice below about interested persons.

220. Be prepared to intervene during the formal presentation of evidence. Careful interventions can assist your understanding of the arguments and may help reduce the length of an inquiry. For example, you might intervene:

- To suggest a brief adjournment to allow the parties to reach agreement on a particular matter, if you feel that would be more productive than continuing the adversarial approach (for example, on conditions or technical matters). Alternatively, you could ask them to do this during a slightly extended lunch break or overnight.
- To ensure the inquiry is efficient and effective (see 'Your interventions').
- To ask your own questions (see 'Inspector's questions').

221. It is good practice to check that everyone has been heard before you move onto the next agenda item.

Opening statements

222. This is where the main parties (including invited parties) briefly outline their overall case. It sets the scene for what is to follow and can be particularly helpful to other persons who are present. Encourage brevity: 5 to 15 minutes should be enough for even the most complex of cases. They should not be used to recite or present evidence.

Formal presentation of evidence

223. For the formal presentation of evidence, witnesses may be grouped by party (i.e. all the witnesses for one party are heard, followed by all the witnesses for the next party), or by main issue (all the witnesses dealing with one main issue are heard before moving on to those dealing with the next main issue).

224. Irrespective of how they are grouped, the order in which witnesses are usually heard is: the LPA's witness(es) first, then the witness(es) for any invited party, and finally the witness(es) for the appellant. The same order applies whether witnesses are grouped by party or by main issue.

225. Each witness presents their evidence in the following sequence:

- **Examination-in-chief**, led by the advocate for the party calling the witness.
- **Cross-examination** by the advocate(s) for the opposing main party and by any opposing invited parties).

- **Any other questions** to the witness (from others wishing to speak at the inquiry who are opposed to the party calling the witness).
- **Re-examination** by the advocate for the party calling the witness.

226. **Examination-in-chief** is where individual witnesses are taken through their evidence by their own advocate. Most witnesses prepare a proof of evidence. It is not necessary for the proof, or even a summary of it, to be read out in full. However, where there are members of the public or other parties present who have not seen the proofs, it can be helpful for important parts of the summary to be read out to provide context. Nevertheless, discourage the reading out of too much factual material. The examination in chief has three purposes:

- It allows the advocate to highlight key points in the witness's evidence
- It helps make others who are present aware of the case in more detail
- It allows the witness to settle in before being cross-examined

227. **Cross-examination** is the key part of the adversarial inquiry process and the point at which the evidence of one party is tested by the advocate(s) for the opposing party/ies. Advocates may ask a series of questions that are intended to lead the witness for the opposing side towards a particular answer. The aim of the questioning may not always be clear at the outset and it is best to avoid intervening too early. However, the advocates have a duty to assist the inquiry, so be prepared to intervene when the questioning does not appear to be helping you. Consider asking – "where is this going"?

228. **Re-examination** is where the advocate has the opportunity to ask questions of their own witness following their cross-examination by the opposing advocate. Generally, this will be used in an attempt to clarify matters or recover ground that may have been lost in cross-examination. However, it should only be directed at matters raised in cross-examination. It should not be used to introduce new points or ask leading questions (i.e. where the question suggests the expected answer). If it is, you should ask the witness's advocate to desist. Do not wait for an objection from the opposing advocate.

Round-table sessions

229. A round-table session is essentially the same as a hearing, with the Inspector leading the discussion. They are the best format for hearing evidence on conditions and obligations, even if these are formally part of the inquiry.

230. The main parties, any invited parties, and any other persons who have indicated a wish to speak may take part in round-table sessions. Advocates take part on the same basis as the other participants and do not introduce witnesses or present evidence formally. It is for each party to decide whether their witness, advocate or both is best placed to deal with a particular point.

231. The layout of the room need not change but ensure that all those who want to take part, including interested persons, are seated in the front row or inquiry table. Participants speak from their seats and the witness table should not be used.

Ensure that all participants have the opportunity to have their say on each point and, ideally, that the appellant has the final say.

Closing (or legal) submissions

232. Regulation 45(14) permits persons taking part in the inquiry to make closing submissions. It is good practice to invite each party who called witnesses to do this. It is usual to finish with the appellant. Generally, it should not be necessary to interrupt a closing submission. However, you should intervene if it appears that a new point or evidence is being introduced, or if anything is unclear.

233. You can ask the advocates before they start, or at any point during the inquiry, to cover any particular points in closing. You can also seek clarification at the end of their submission. This could be important if significant concessions were made during cross-examination.

234. Regulation 45(15) states that closing submissions must be provided in writing to the Inspector before the close of the inquiry. You should not accept written closing submissions after the inquiry, due to risk of new points being raised. You may therefore need to arrange the programme so that the advocates have time to prepare their written closing statements, for example by arranging the site visit (which advocates do not normally attend) at the start of the final day.

235. Well-prepared closing statements can be very helpful when writing your decision as they will summarise the key points. Take careful notes if advocates depart from the script that they have given you. If a reference is made to a legal judgment, try to secure a full reference and, if possible, a copy of the judgment.

Your interventions

236. You should intervene:

- To stop discourteous/disruptive behaviour by anyone, to you or any party.
- To control aggressive or bullying behaviour by an advocate.
- Where the advocate is seeking to score points which are not directly relevant to your consideration of the planning merits of the case.
- Where the witness is being evasive or is not answering the question.
- To prevent repetitious questions or answers.
- To prevent unhelpful or irrelevant questions.
- To prevent questions which are outside the witness's expertise/knowledge.
- To prevent questions and answers which seem calculated to annoy.
- To stop cross-examination on legal matters if it does not appear to be assisting. Such matters are normally dealt with in submissions rather than through the cross-examination of a non-lawyer by an advocate.
- To prevent leading questions during the examination-in-chief or re-examination – i.e the advocate should not be suggesting the answer to a question which they are asking of their own witness. If necessary, ask the advocate to re-frame the question.

- To remind interested persons that this is their opportunity to ask a question of the witness – not to make a statement.

237. Usually, a polite reminder will be effective. You will generally find that advocates will do their best to assist you.

238. Inquiries may be attended by large numbers of people who have strong feelings about the proposal. People may be unfamiliar with the planning system and inquiry procedures. They may be frustrated by having to wait to present their case. Act quickly to stop any disruption – including audible whispering, general conversation, gasps, applauding, booing or unsolicited comments. It will usually be enough to stress that you need quiet so that you can hear all the participants and that the procedures are designed to allow everyone to have their say.

239. If feelings are running high, you could amend the programme so that interested persons are allowed to speak first. This can help to defuse tension. However, you should seek the views of the main parties before doing this.

240. If things become heated, a short adjournment can help to restore calm.

241. If the approaches outlined above are not successful, you have the power to:

- Refuse to permit irrelevant or repetitious evidence or cross-examination – Regulation 45(7). However, be aware that Reg 45(9) states that if you refuse to permit oral evidence, the person may submit the evidence in writing before the close of the inquiry – so you need to tell them that.
- Require a person behaving disruptively to leave, refuse to permit the person to return or permit them to return subject to conditions (Reg 45(10), but you should allow any such person to submit evidence in writing before the close of the inquiry (Reg 45(11) – so you need to tell them that.
- Proceed with an inquiry in the absence of a person entitled to appear at it – Reg 39(1).

242. Only rarely will you find it necessary to give a formal warning or ask someone to leave. If you do, make a careful written note of the case reference, main parties, date, venue and a summary of the behaviour, warning and response (for future reference in the event of a complaint). If you have asked someone to leave and they refuse, or if disorderly behaviour is disrupting proceedings despite your best attempts to maintain control, you should contact building security in the first place. Your final option is for the police to be called, preferably by building security and/or to adjourn to another day. (See also **Annex K**).

Your questions

243. During the formal presentation of evidence, you can and should intervene to ask questions of a witness. This might be to seek clarification on a particular point or to address something that you feel has not been covered adequately. It is best to ask questions during the relevant part of the evidence-in-chief, or if not, at the end of it, so that the advocate can re-examine their witness if need be. Alternatively, you should offer the opportunity to re-examine.

244. You do not necessarily need to ask both main parties the same questions. However, you must ensure you are fair to both parties. Any questions you ask must be framed neutrally (see advice in the 'Hearings' section).

Inquiries – conduct of the parties

Interested persons

245. Any other 'interested persons' who have not specifically been invited to participate in the inquiry, but who wish to speak, may be heard at your discretion. They may not be able to stay for all the proceedings. You cannot expect them to be familiar with the inquiry process, to have full knowledge of the case, or to offer solutions. Accordingly:

- You may need to hear from people out of the normal order – if so, seek the agreement of the main parties.
- Try to ensure that people do not feel intimidated by the proceedings or any of the participants. It is your role to help ensure that they can get across their arguments. In some cases, people may feel more comfortable speaking from where they are sitting rather than from the witness table.
- Ask if they are prepared to be cross-examined or to be asked questions by the main parties – inform them that that this will increase the weight that can be attached to their evidence (untested evidence carries less weight).
- You may need to help interested persons frame their questions.

246. There is nothing in the Regulations to prevent an interested person making an opening statement or a closing submission. However, this will usually only be done by the appellant, LPA and invited parties, and is at the Inspector's discretion. Their opening statements will usually be heard after the main parties have opened, and their closing submissions before those of the appellant.

'Invited Parties' (formerly known as 'Rule 6 parties')

247. In most cases the invited party will prepare proof(s) of evidence and will take part in the same way as the appellant and LPA. You will need to adjust the standard running order to accommodate invited parties. If they are opposing the proposal:

- Any opening statement and closing submission from an invited party would usually follow the LPA.
- Witnesses for an invited party would normally be heard after the LPA but before the appellant.
- Invited parties can cross-examine the appellant – usually after the LPA.

Discussion between an advocate and their witness

248. Once a witness has started giving evidence in chief, they should not be permitted to discuss evidence with their own advocate or team until their re-

examination has been completed. Consequently, where possible, it is best to avoid adjourning over lunch or overnight. If this is not possible you should remind the witness of the need to avoid communicating with their advocate and team in adjournments. This includes electronic communication, e mails and WhatsApp groups for example.

249. An exception may be made in cases of long adjournments (weeks) where it would be unreasonable to expect a witness not to be in contact with their team on other matters. Also where changes in circumstances require discussion between the witness and the advocate, where the witness is instructing the barrister.

250. If you adjourn for a long period before a witness has been through re-examination you should discuss with the parties the circumstances in which a witness may be in contact with their team and the advocate. This is likely to be on matters not related to the case or where there are significant new matters requiring the witness to give instructions to the barrister.

Who has the right to cross-examine?

251. In the interests of natural justice, alongside the appellant and LPA you should allow invited parties to cross-examine witnesses. Interested persons should also normally be allowed to ask questions of a witness giving evidence for the side they oppose. Try to make sure that questions do not repeat those already put by the opposing advocate.

252. The convention is that statutory bodies should normally be given the opportunity to present their case and cross-examine/ask questions before any other parties.

Can people ask a question of "their own side"?

253. Occasionally, invited parties or interested persons may want to ask a question of a witness who is on the same side as them. Although there is nothing in the Regulations to prohibit this, the general convention is that a witness should not be cross-examined by their own side. However, if there are fundamental differences between parties who are, nevertheless, seeking the same outcome to the appeal, it can be reasonable to allow questions. In some cases it may work best if any questions are put through you.

Expert witnesses

254. The weight to be afforded to the evidence of an expert witness could depend on their qualifications and experience. This is because the evidence of an expert in a particular field should be well informed. However, it is the quality of the evidence that is of primary importance (and the degree to which it stands up to being tested under cross-examination).

Officers who disagree with their LPA

255. If an LPA's decision has been made against the officers' recommendation, it is for the LPA to decide whether to call such officers as witnesses. If they do, it is reasonable for the opposing advocate to ask the officers questions about their own professional views and the advice they provided to the LPA. It will be for you to decide what bearing their answers have on the weight you attach to their evidence. It will usually be established that there is a distinction between their own professional view and their representation of the views of the authority at the inquiry.

256. However, in many such cases the LPA will employ a consultant or use a different officer or an elected member to give evidence instead.

Advocates who are also witnesses

257. Sometimes professional persons may appear in a dual capacity as an advocate and as an expert witness. This should not normally present any difficulties. However, it is important to distinguish between the two roles and they should sit at the witness table when giving evidence. For obvious reasons, they will be unable to re-examine themselves.

If an LPA no longer intends to defend a reason for refusal

258. The LPA may announce at or before the inquiry that they no longer intend to defend a reason for refusal. Occasionally they may explain that they no longer have any objections to the proposal. Even though this may have been made clear in writing, it is helpful to ask the LPA to explain the reasons for their position, particularly if other people are attending the inquiry.

259. The LPA may state that it no longer intends to present any evidence on these matters, or at all. However, if you have questions or if there are interested persons who oppose the proposal on these grounds you may request that the LPA witness is made available to answer questions. If the issue is a technical one (e.g. traffic) it can be advantageous to hold a session where the expert witnesses for the LPA and appellant share the witness table and answer any questions from you and other parties in turn.

260. In these circumstances, the appellant may still want to present their evidence-in-chief on the subject, particularly if there are third-party objections. Similarly, they may wish to ask questions of interested persons opposing the proposal. You should allow this.

261. However, if the LPA declines to present evidence they should not be allowed to cross-examine the appellant. Essentially, therefore the evidence of the appellant will be un-tested – except by any questions that you or interested persons raise.

262. Where the LPA no longer intend to defend a particular reason for refusal or have any objections to the proposal, the appellant may decide to make an application for costs, or you may decide to initiate an award of costs.

Representatives of organisations

263. Check the position of anyone who states that they are representing an organisation. Do they have authority to represent the organisation? It can also be helpful to know the number of members and how the organisation arrived at their position on the appeal (for example, was there a vote at a meeting or a committee decision?).

Annex A: List of things to take

Appeal documents

Opening script and questions
Agenda (several copies)
Spare paper (e.g. for recording names and emails of those who wish to be notified of the decision)

Relevant national policy and guidance
Relevant Regulations, sections of Acts, GPDO etc
Procedural Guidance

Laptop
Work mobile phone
ID card
Nameplate
Stationery
Notebook
Clipboard
Up-to-date information on charted cases and holidays (in case of adjournment)

Maps
Hire car details
Train tickets
Hotel booking
Bus/train timetables
Safety equipment and PPE
Phone numbers – case officer, chart, Inspector Manager

Personal items (money, mobile phone, watch, overnight bag etc)

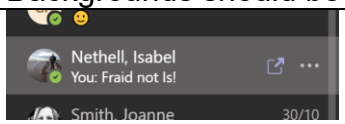
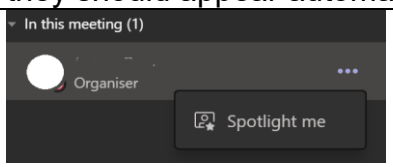
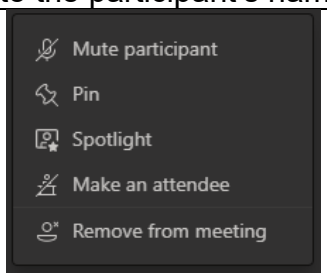
Have you given your ‘buddy’ details of your itinerary (see ‘Site visits’)?

Annex B: Health and safety checklist

When arriving at a venue – check the following:

	Yes/no	Any comments
Arrangements for activating the fire alarm and contacting emergency services		
The sound of the alarm and if there are any different alarm signals		
The evacuation procedure from the hearing room, the location of fire exits, evacuation routes and assembly points		
Any planned fire alarm testing or fire evacuation drills		
The location of toilets		
Ensure persons attending at the start of each day are aware of the above		
Check that fire exists from the hearing room are not blocked by tables or chairs etc		

Annex C: Guidance on MS Teams functions

What	How
Turn on corporate background	 After clicking the 'Join meeting' link, click the icon to the right of the microphone showing a person against a hatched background (see above). The Corporate Backgrounds should be at the bottom of the list.
Send a private message to the administrator	 Through the main Teams screen. If you haven't chatted to them on Teams before do so shortly before the event and they should appear automatically in the left hand column.
Spotlight yourself (or turn spotlight off)	 After joining the meeting, in the 'Participants' panel hover over your name, click on the three dots which should appear, and then click 'Spotlight me'. Do the same to remove the spotlight.
Mute a participant	In the participant list, hover over the microphone icon next to the participant's name and mute them.
Eject a participant	 In the participants list, click on the three dots next to their name then select Remove from meeting.
Elevate an 'observer' to a 'participant'	In the Participants list, click on the three dots next to their name and select Make a presenter. This can be reversed by the same process selecting make an attendee.
Turn off the 'Notification received' bleep	Go into the main Teams screen Select 'Activity' Click the cog icon to the right of where it says 'Feed' Click 'Notifications' Slide the 'Play sound for notifications' to the left

Annex D: Agenda template and main issues (bilingual)

Agenda structure and items

[Insert bilingual LPA name e.g. Cyngor Bro Morgannwg / Vale of Glamorgan Council]	
Cyfeirnod y Gwrandawiad Apêl: [Insert]	Hearing Appeal Ref: [Insert]
[Insert time and date e.g. 10:00, 4/12/2022]	
AGENDA I'W THRAFOD	**AGENDA FOR DISCUSSION**
1. Cyflwyniad	1. Introduction
2. Materion Rhagarweiniol	2. Preliminary Matters
3. Polisïau Cynllunio	3. Planning Policies
4. Prif Faterion:	4. Main Issues:
• [Insert from list]	• [Insert from list]
5. Materion Eraill	5. Other Matters
6. Amodau (heb ragfarn) [a Rhwymedigaethau]	6. Conditions (without prejudice) [and Obligations]
7. Ceisiadau am gostau, os oes rhai	7. Cost applications, if any
8. Trefniadau Ymweld â'r Safle	8. Site Visit Arrangements
9. Diwedd	9. Close

Main issues – section 78 appeals and planning applications

Yr effaith ar gymeriad a golwg yr ardal	The effect on the character and appearance of the area
Yr effaith ar gymeriad a golwg yr ardal wledig gyfagos	The effect on the character and appearance of the surrounding countryside

Effaith y datblygiad ar gymeriad a golwg yr ardal o ystyried ei leoliad mewn [Parc Cenedlaethol] [Ardal o Harddwch Naturiol Eithriadol] [Ardal Tirwedd Arbennig] [Arfordir Treftadaeth]	The effect of the development on the character and appearance of the area having regard to its location in the [National Park] [Area of Outstanding Natural Beauty] [Special Landscape Area] [Heritage Coast]
Yr effaith ar gymeriad a golwg yr ardal o ystyried lleoliad, dyluniad a golwg allanol y datblygiad	The effect on the character and appearance of the area having regard to the siting, design and external appearance of the development (Prior approval cases for agricultural and forestry buildings/operations Parts 6 and 7 of the GDPO)
Yr effaith ar asedau treftadaeth	The effect on heritage assets
Pa un a fyddai'r cynnig yn cynnal neu'n gwella cymeriad neu olwg yr Ardal Gadwraeth	Whether the proposal would preserve or enhance the character or appearance of the Conservation Area
Yr effaith ar osodiad adeilad rhestredig	The effect on the setting of a listed building
Pa un a fyddai'r cynnig yn cynnal yr adeilad rhestredig [neu ei osodiad] [neu unrhyw nodweddion o ddiddordeb pensaernïol neu hanesyddol arbennig sy'n perthyn iddo]	Whether the proposal would preserve the listed building [or its setting] [or any features of special architectural or historic interest which it possesses]
Yr effaith ar amodau byw	The effect on living conditions
Yr effaith ar ddiogelwch ar y ffyrdd	The effect on highway safety
Yr effaith ar y perygl o lifogydd	The effect on flood risk
Yr effaith ar goed	The effect on trees
Yr effaith ar rywogaethau a ddiogelir	The effect on protected species
Pa un a fyddai'r cynnig yn creu patrwm datblygu cynaliadwy ai	Whether the proposal would result in a sustainable pattern of development
Yr effaith ar ddarpariaeth seilwaith a chyfleusterau	The effect on the provision of infrastructure and facilities
Cyflenwad tir ar gyfer tai	Housing land supply
Pa un a fyddai'r cyfraniad i'r cyflenwad tir ar gyfer tai yn ddigonol i orbwyso unrhyw niwed	Whether the contribution to housing land supply would be sufficient to outweigh any harm
Pa un a yw'r cynnig yn rhoi digon o ystyriaeth i dai fforddiadwy	Whether the proposal makes adequate provision for affordable housing

Yr effaith ar fywiogrwydd a hyfywedd y ganolfan siopa	The effect on the vitality and viability of the shopping centre
Yr effaith o amrywio neu ddileu'r [amod[au] cynhennus] [rhwymedigaeth gynllunio] ar [gymeriad a golwg yr ardal] [asedau treftadaeth] [amodau byw] [diogelwch ar y ffyrdd] [y perygl o lifogydd] [coed] [rhywogaethau a ddiogelir].	The effect of varying or removing the [disputed condition[s]] [planning obligation] on [the character and appearance of the area] [heritage assets] [living conditions] [highway safety] [flood risk] [trees] [protected species]
Pa un a oes gwir angen am annedd i ddarparu llety ar gyfer gweithiwr gwledig	Whether there is an essential need for a dwelling to accommodate a rural worker
Yr effaith ar gymeriad ac amwynder yr ardal	The effect on the character and amenity of the area (HMO casework)
Yr effaith ar amwynder [a diogelwch y cyhoedd]	The effect on amenity [and public safety] (Advertisement appeals)
• Pa un a yw'r cynnig yn ddatblygiad anaddas yn y [llain las] [lletem las]? • Yr effaith ar gymeriad a natur agored y [llain las] [lletem las]. • Pa un a fyddai unrhyw ystyriaethau eraill yn gorbwyso unrhyw niwed o ganlyniad i anaddasrwydd y cynllun ac, os felly, a oes unrhyw amgylchiadau eithriadol yn bodoli	• Whether the proposal is inappropriate development in the [green belt] [green wedge] • The effect on the character and openness of the [green belt] [green wedge] • Whether any harm by reason of inappropriateness would be clearly outweighed by other considerations, and if so do very exceptional circumstances exist
• Y dirwedd a'r effaith weledol ar gymeriad a golwg yr ardal • Pa un a yw manteision y cais yn gorbwyso unrhyw niwed, gan gynnwys cyfraniad y cynnig i gynhyrchu ynni o ffynonellau adnewyddadwy	• The landscape and visual effects on the character and appearance of the area • Whether any harm is outweighed by the benefits of the proposal, including its contribution to energy generation from renewable sources
• Y ddarpariaeth a'r angen am safleoedd sipsiwn a theithwyr yn yr ardal • Angen yr apelydd[ion] am safle ac opsiynau llety amgen • Pa un a yw'r amgylchiadau personol yn ddigon i orbwyso unrhyw niwed	• The provision of and need for gypsy and traveller sites in the area • The appellant[s] need for a site and alternative accommodation options • Whether personal circumstances are sufficient to outweigh any harm

Section 174 appeals – Main issues

Ground (e) Sail (e)	the enforcement notice was not properly served. ni chyflwynwyd yr hysbysiad gorfodi'n briodol.
Ground (b) Sail (b)	the alleged matters in breach have not occurred. nid yw'r materion o dorri honedig wedi digwydd.
Ground (c) Sail (c)	the alleged matters do not constitute a breach of planning control. nid yw'r materion honedig yn gyfystyr â thorri rheolaeth gynllunio.
Ground (d) Sail (d)	it is too late to take enforcement action. mae'n rhy hwyr i gymryd camau gorfodi.
Ground (a) Sail (a)	That planning permission should be granted for what is alleged in the notice Y dylai caniatâd cynllunio gael ei roi ar gyfer yr hyn a honnir yn yr hysbysiad
Ground (f) Sail (f)	the requirements are excessive, and lesser steps would remedy the breach or any injury to amenity. mae'r gofynion yn ormodol, a byddai camau llai yn cywiro'r toriad neu unrhyw niwed i amwynder.
Ground (g) Sail (g)	a longer period should be allowed for compliance. dylid caniatáu cyfnod hirach ar gyfer cydymffurfio.

Annex E: Welsh opening announcement – guidance

(1 = English, 2 = Welsh, 3 = phonetic)

1	**During this event, we welcome participation through the medium of Welsh.**						
2	Yn ystod	y digwyddiad	yma,	mae croeso i chi	gymryd rhan	trwy gyfrwng	y Gymraeg.
3	Ugh nuh-stod	ugh-dig-Withy-ad	Um-ma,	mye Kroy-soy chee	Gum-rid Rhan	trooy Guv-roong	ugh-gum-Rye-gg.

1	**There are translation facilities here in order for you to do this.**				
2	Mae offer	cyfieithu	ar gael	yma i chi	wneud hyn
3	Mye Off-err	kuv-Yaith-ee	arr Gyle	Um-mye chee	Nayd hin

If translator is available, ask the translator to introduce themselves.

If translation has not been arranged, replace the second table above with:

1	**There are no translation facilities here currently, but this can be arranged.**						
2	Nid oes	offer	cyfieithu	ar gael ar	hyn o bryd,	ond mae'n bosib	trefnu hyn
3	Need oyce	Off-air	kuv-Yaith-ee	arr Guy-larr	hin oh Breed	ond myne Boss-sib	Trev-knee hin

If anyone does request translation where it has not been arranged, you'll need to go on to explain (in English, and also in Welsh if you are able), what the next steps would be i.e. adjournment.

Although it is only necessary to say this once in opening, for multi day events it may be appropriate to repeat it.

Notification letters invite participants to express their language preference and should anyone wish to speak Welsh PEDW will ask LPAs to provide translation where notified has been provided. However, if someone indicates at an event that they wish to participate in Welsh and simultaneous translation is needed but not provided the event should be adjourned until it is available.

Annex F: In-person Hearing opening/closing script

Before opening

While waiting to open the hearing:

- check the main parties are present
- distribute the agenda
- encourage all those who intend to speak to sit around the table (or where they will be able to participate)

Introduction

Bore da bawb, good morning everyone. It is [10 o clock] and time for me to open this Hearing.

This would be a good time to switch mobile phones off (or turn them to silent)

Can everybody hear me? [if not please move closer]. If at any time anyone cannot hear please indicate and I will try and make arrangements so that you can.

In the event of a fire alarm [note fire exits, evacuation routes, assembly point, fire alarm testing/drills]

My name is []

I am the Inspector appointed by the Welsh Ministers to conduct this Hearing and to determine the appeal by [].

This appeal results from the decision of [LPA] to refuse planning permission for a proposal described as [] at [].

Before we start the discussion there are a few formalities I need to complete.

(1 = English, 2 = Welsh, 3 = phonetic)

1	**During this event, we welcome participation through the medium of Welsh.**						
2	Yn ystod	y digwyddiad	yma,	mae croeso i chi	gymryd rhan	trwy gyfrwng	y Gymraeg.
3	Ugh nuh-stod	ugh-dig-Withy-ad	Um-ma,	mye Kroy-soy chee	Gum-rid Rhan	trooy Guv-roong	ugh-gum-Rye-gg.

1	**There are translation facilities here in order for you to do this.**				
2	Mae offer	cyfieithu	ar gael	yma i chi	wneud hyn
3	mye Off-err	kuv-Yaith-ee	arr Gyle	Um-mye chee	Nayd hin

[If translator is available, ask the translator to introduce themselves.]

[If translation has not been arranged, replace the second table above with:]

1	**There are no translation facilities here currently, but this can be arranged.**						
2	Nid oes	offer	cyfieithu	ar gael ar	hyn o bryd,	ond mae'n bosib	trefnu hyn
3	Need oyce	Off-air	kuv-Yaith-ee	arr Guy-larr	hin oh Breed	ond myne Boss-sib	Trev-knee hin

Filming/recording

As it is likely to be disruptive, may deter people from speaking and raises serious data protection issues, It is PEDW policy not to permit filming or recording.

Participants

Firstly, can I take the names of all those who wish to speak and their interest in the case:

For the appellant
For the LPA
[record name, position in organisation, qualifications]

Does anyone else wish to speak?
[record name, interest in case and address]

If anyone else wants to speak during the hearing, please let me know if I've not already taken your name.

Is anyone present from the press?

[If anyone asks for a copy of the decision advise that it will be made available on the Appeals Portal]

Event structure and format

The hearing today will be a structured discussion which I shall lead based on an agreed agenda. The purpose is to enable all of you to put forward your points of view and to help me get the information I need to make my decision.

Notification letters

Can I have a copy of the LPA's letters of notification:

- of the appeal and
- confirming the date, time and location of the Hearing

[if not already provided & satisfactory]

[check – were the letters sent to those they should have been, in time – eg at least 2 weeks before the hearing – are the details of the date, time and venue correct?]

[If the letters cannot be provided, were not sent or are incorrect – consider whether the interests of any parties would be prejudiced – is it necessary to adjourn the hearing to allow the correct notification to take place?]

Representations

I have copies of representations made in response to the:

- appeal notification
- original planning application consultation and the appeal notification

I will take these into account in reaching my decision.

OR I have not received any representations in support or opposing the proposal.

[if there is any doubt about whether the main parties have seen all of these – offer the opportunity to check them - eg during an adjournment]

Evidence

[Deal with any late evidence]

All documents and evidence should already have been provided

Not inviting any – but if you intend to submit any, please tell me now

If anyone intends to submit further evidence – ask:

- Is the material relevant?
- Why was it not received in accordance with the timetable [set in the Regs]?
- Are there any exceptional circumstances for it being provided now rather than with the statement of case?
- Seek the views of the other parties – have they seen the material?
- Would an adjournment be needed (how long, same day, different day)?
- If appropriate, warn about risk of costs application

Note that the other party could apply for costs and the Inspector could initiate costs [if the behaviour was unreasonable and led to unnecessary expense]

Plans

Clarify which plans were before the LPA when it made its decision.

Clarify the status of any other plans (superseded, illustrative, revised plans provided at appeal)

If revised plans submitted at appeal – decide whether to accept – ask:

- Would they materially change the proposal?
- Would any party be prejudiced – because they might have been denied an opportunity to comment

Decide whether to accept

Conditions

We will need to have a discussion about what conditions might be appropriate were I to allow the appeal.

This is standard procedure. It does not indicate that I have made up my mind on the case. Nor will the discussion affect the Council's position in relation to the proposal.

Is the list of conditions provided by the Council/in the Statement of Common Ground up-to-date?

Site visit

I've already been able to see the appeal site from [road] and so have a general awareness of the site and its surroundings [or refer to any specific features]

However, I will be making a site inspection later.

[if necessary to go on private land] I will need to be accompanied by a representative from the appellant and LPA.

[if not necessary to go on private land] – I will be able to visit the site unaccompanied. However, do the appellant and LPA wish to be present?

[if interested parties are present] – Does anyone else wish to attend the site visit - other parties can attend the site visit – but will need permission from the appellant to go on the appeal site.

Are there any safety issues to be aware of?

I will close the hearing here. The site visit will be solely to enable me to see the site and surroundings. I will not be able to listen to any representations or discussions – therefore, it is important that you make any comments before we leave here.

[discuss any alternative arrangements – eg if site visit needs to take place earlier in the day perhaps due to daylight issues

Costs

I am not inviting any applications for costs – but if any are to be made this should be done here before the site visit [or alternatively note any receipt of written applications for costs or indications that a cost application will be made – and that you will deal with these later]

In addition, I have a power to initiate an award of costs, whether or not any applications have been made by the parties, and, if I were to do this, it would follow a written process with the relevant party after the appeal decision is issued

Procedure [only if necessary]

[eg if the criteria for an inquiry might apply – see *Procedural Guidance Wales*

[explore whether the procedure is appropriate with the parties]

[If I decide during the discussion that this procedure is not appropriate I will close the hearing and ask the office to arrange for the appeal to be dealt with by means of an inquiry]

Matters for discussion

[Hand out agenda if not already circulated]

The agenda sets out what I regard to be the main issues [read out]

In addition, I shall wish to cover the following [highlight any procedural issues and other matters you want to cover]

Does anyone disagree or have any comments? [amend main issues, as necessary]

During the discussion I will invite contributions from one side and then the other [and then from any interested persons] – if you want to make a point or feel I am moving on before you have said all you want to please tell me.

I have read all the written statements – and so there is no need to repeat material – although you can draw my attention to something specific.

[There will be no formal presentation of cases or cross examination – unless I specifically agree to it]

Timing

[deal with any issues relating to timing of hearing]

I will take a break mid-morning [and for lunch and mid-afternoon if still sitting]

Aim to finish no later than 5pm

Any questions

Are there any questions at this stage about the procedural side of the hearing?

Agenda

[before moving on to discuss ‘any other matters’ check that no one wishes to add anything in respect of the main issues]

[before moving on to discuss conditions – check that there are no further planning issues that anyone wants to raise]

Costs

Are there any applications for costs?

[Listen to any costs applications]

- Is the application available in writing? (if not already provided)
- Explain procedure – application – response – final comments on any new points
- Remind party they need to demonstrate unreasonable behaviour which has resulted in unnecessary expense
- Note that references should be made to the guidance on the award of costs in the Development Management Manual
- Please proceed at a steady pace – need to take notes [If costs application made verbally]
- Seeking full or partial award?
- Allow the other party an adjournment to consider response if necessary [if the application is made verbally or a written application is added to]

[or if the costs application has already been made in writing]

- Do you still wish to proceed with your written application for costs?
- Do you intend to add anything to the application?
- Allow the other party to respond
- Any final response

Site visit

I shall now make arrangements for the site visit.

I will close the hearing before going to the site, so the purpose of the visit is:

- For me to see the site
- You can point out physical features
- But I will not listen to any further discussion of merits

[Accompanied or unaccompanied?]

Who will attend for:

- appellant
- LPA
- Any interested parties?
- interested parties need permission of appellant to go on appeal site

Check how long to get to site?

Discuss any travel arrangements [if travelling with the appellant and LPA]

Confirm time and best place to meet

Deal with arrangements to visit any other sites

Confirm any parking arrangements

Any health and safety issues?

Closing

Before we leave are there any outstanding documents or questions?

[If anyone asks when the decision will be issued, ask if they wish to be notified; if they do, take a note of their name, and email address (if we don't already have it)]

Thank you all for your contributions.

The hearing is now closed [or adjourned].

Annex G: Virtual Hearing opening script

Before opening

- Ensure background is corporate background
- Open all drawings/documents or have them available
- Close Outlook; put phone on mute or divert
- Message event admin to ensure parties have joined the meeting
- Join meeting from calendar 2-3 minutes before start time. Enter with mic and camera off
- Check everything is in order – check participant permissions are ok
- Turn on camera and mic - check camera angle
- At start time -Place spotlight on for opening and start recording

Introduction

Bore da bawb, good morning everyone. I make it ** o'clock and this hearing is now open.

Could I ask everyone to ensure their microphones are turned off until I invite you to speak. That will ensure the event runs smoothly.

Please could you also ensure that if you have a telephone near you, that it is turned to silent or divert.

My name is *** . I am the Inspector appointed by the Welsh Ministers to conduct this hearing and to determine the appeal:

By []

Resulting from the decision of []

To refuse permission for []

At []

I am joined today by [case officer], who you have probably already been introduced to. [S]he is the Case Officer assisting me with the administration of the appeal.

Before we start the discussion there are a few formalities I need to complete.

(1 = English, 2 = Welsh, 3 = phonetic)

1	**During this event, we welcome participation through the medium of Welsh.**						
2	Yn ystod	y digwyddiad	yma,	mae croeso i chi	gymryd rhan	trwy gyfrwng	y Gymraeg.
3	Ugh nuh-stod	ugh-dig-Withy-ad	Um-ma,	mye Kroy-soy chee	Gum-rid Rhan	trooy Guv-roong	ugh-gum-Rye-gg.

1	**There are translation facilities here in order for you to do this.**				
2	Mae offer	cyfieithu	ar gael	yma i chi	wneud hyn
3	mye Off-err	kuv-Yaith-ee	arr Gyle	Um-mye chee	Nayd hin

[If translation has not been arranged, replace the second table above with:]

1	**There are no translation facilities here currently, but this can be arranged.**						
2	Nid oes	offer	cyfieithu	ar gael ar	hyn o bryd,	ond mae'n bosib	trefnu hyn
3	Need oyce	Off-air	kuv-Yaith-ee	arr Guy-larr	hin oh Breed	ond myne Boss-sib	Trev-knee hin

We are joined today by a translator, [name], who will provide simultaneous translation between Welsh and English over a second audio channel. Can we now check that that channel is working?...

Filming/recording

As it is likely to be disruptive, may deter people from speaking and raises serious data protection issues, It is PEDW policy not to permit filming or recording.

Participants

Please bear in mind that some parties will be unfamiliar with the technology we are using. Some people may be taking part from home and there may be interruptions. I therefore appreciate your patience and cooperation during the event.

I have a list of those who have been invited to take part in the hearing today. I first want to check they are here and that their technology is working. I'll come to the appellant first…

For the appellant: [Names]

For the Council/Authority: [Names]

I also understand that there are interested parties: [Names]

[There are also several observers. You can change your mind and speak if you so wish.]

Event structure and format

The purpose of the hearing today is to help me get the information I need to make my decision. It is also an opportunity for you to put forward your points of view. It will therefore be a structured discussion which I shall lead based on the agenda I issued ahead of today (hopefully you all have copies).

During the discussion I will invite contributions from either the appellant or the Council and then from interested persons.

Please keep your microphones off until invited to speak.

If you wish to address a point that has been made, please indicate this by using the hands up function on your tool bar. I will be able to see who has used the hands up function and in what order and I will invite those participants to speak at the appropriate time]

OR IF THERE ARE LIMITED NUMBER OF PARTICIPANTS:

[I am happy for participants to contribute during the hearing but I do ask that you ensure your contributions are appropriate and courteous. Please try to avoid interrupting anyone who is already speaking. If I feel that people are speaking over each other, or that the hearing is not running in an appropriate manner, I will ask all participants to turn off their microphone unless speaking and to use the "hands up" function which you will have tested during the pre-hearing meeting.]

You might find it a slightly unnatural way of having a discussion because it may be quite slow and structured. However, if we do not operate in this way, we run the risk of talking over each other.

You can be assured that all participants will be given a chance to address the points raised so there will be no need to interrupt. I am sure I won't need to, but I will need to turn participants' microphones off if they become disruptive.

I have read all the written statements, so there is no need to repeat things that you've already brought to my attention. You may be referring to technical data so it will be useful for the benefit of all present if you could explain terms as we go.

[We won't be using the chat function because its distracting and I don't want side discussions within the hearing. Therefore, I will not be looking at it.] This paragraph can be removed once the chat function has been disabled for hearings.

Technology problems

It is possible that technology issues may arise that we are not expecting. I will of course try to be aware of anyone dropping out and will adjourn for 5 minutes if I see that someone has lost connection.

If you lose connection first switch off and on again and try to re-join the event. If the connection is not good try turning off your camera/video link and use audio only. If neither of those work they should contact the Administrator.

In that period, you should try and log back in, in the same way that you did earlier.

If the problem persists then the adjournment may be longer and if it can't be resolved, we may need to adjourn to another day. [Case officer] and/or I will keep all parties up to date on what is happening.

If you decide to leave please let me know so that I know that your absence is not due to a problem with your connection.

Adjournments etc

Video conferencing can be quite demanding and tiring as you are using screens and technology whilst thinking about what you need to say. Therefore I intend to

have regular breaks – around every hour or so. If anybody needs or feels that an adjournment would be useful at any other time, please let me know.

As in a physical event, it is crucial in the interests of openness that before, after and during the hearing I am not left alone with any party. Therefore, when we adjourn, please allow me to leave the meeting before you do.

During adjournments, I will leave the meeting completely, so that I cannot hear or see anything and will re-join at the stated time.

I will give guidance before each break (which will be: Please ensure that your camera and microphone is turned off for the duration of each break as the recording of the hearing will continue through each break. Please do not “end the call” during the break as you will need to be readmitted from the lobby if you do this which may cause delays. It is important that you return to your screen before the stated return time).

It is necessary for me to take notes so there may be some pauses. Please bear with me if that is the case. In addition, I may be looking down or at a separate screen to my side when you are speaking. I also have documents on side tables, so I may need to turn away from the screen briefly. This does not mean that I am not listening to you.

Does anybody have any questions or concerns about the technology or general management of today’s event?

Notification letters

I have received copies of the [Council/Authority]’s letters notifying interested parties of:

- The submission of the appeal and how they can submit representations; and
- The date and time of the hearing.

Representations

I have copies of representations made in response to the:

- appeal notification
- original planning application consultation and the appeal notification

I will take these into account in reaching my decision.

OR I have not received any representations in support or opposing the proposal.

[if there is any doubt about whether the main parties have seen all of these – offer the opportunity to check them - eg during an adjournment]

Evidence

[Deal with any late evidence]

All documents and evidence should already have been provided

Not inviting any – but if you intend to submit any, please tell me now

If anyone intends to submit further evidence – ask:

- Is the material relevant?
- Why was it not received in accordance with the timetable [set in the Regs]?
- Are there any exceptional circumstances for it being provided now rather than with the statement of case?
- Seek the views of the other parties – have they seen the material?
- Would an adjournment be needed (how long, same day, different day)?
- If appropriate, warn about risk of costs application

Note that the other party could apply for costs and the Inspector could initiate costs [if the behaviour was unreasonable and led to unnecessary expense]

Plans

Clarify which plans were before the LPA when it made its decision.

Clarify the status of any other plans (superseded, illustrative, revised plans provided at appeal)

If revised plans submitted at appeal – decide whether to accept – ask:

- Would they materially change the proposal?
- Would any party be prejudiced – because they might have been denied an opportunity to comment

Decide whether to accept

Conditions

We'll need to discuss conditions that could be imposed so that I can include them in my decision letter. Discussing these does not mean that I have made my mind up as to what my decision will be and does not undermine the LPA's case.

As per the Section 12 Annex: Award of Costs of the Development Management Manual [replaced Circular since 05/05], an application for costs can be made by either party. I am not inviting any applications, but if one is to be made it must be done before the hearing is closed.

A copy of my decision will automatically be sent to the main parties – i.e. the appellant and LPA. Anyone else who would like to be notified when the decision is issued will need to contact [case officer name] separately.

Site visit

I have not seen the appeal site but I do have an awareness of the site's surroundings from the submissions. I will be visiting the site in due course and will aim to do this on [date]. Due to the Covid 19 situation the visit will not be accompanied.

Do I need to enter the site? [Confirm with appellant. If so:] In that case it will be undertaken as an ARSV. This means that the appellant will give me access to enter the site by myself, but there will be no further discussion about the merits of the case when I visit.

I will close the hearing before I visit the site. Therefore, it is important that you all make any comments you want to before we finish.

Costs

I am not inviting any applications for costs – but if any are to be made this should be done before the close [or alternatively note any receipt of written applications for costs or indications that a cost application will be made – and that you will deal with these later]

In addition, I have a power to initiate an award of costs, whether or not any applications have been made by the parties, and, if I were to do this, it would follow a written process with the relevant party after the appeal decision is issued

Procedure [only if necessary]

[eg if the criteria for an inquiry might apply – see *Procedural Guidance Wales*

[explore whether the procedure is appropriate with the parties]

[If I decide during the discussion that this procedure is not appropriate I will close the hearing and ask the office to arrange for the appeal to be dealt with by means of an inquiry]

Matters for discussion

We'll focus today on what I consider to be the main issues in this case, working through the matters for discussion that I've identified. I have a number of questions to ask and will invite contributions from one side and then the other. Once each topic has been covered we'll move onto the next one. I welcome contributions from everyone but I can only hear from one person at a time and I would ask that people contribute to the discussion only when invited to do so. I'd also stress that I have read the cases thoroughly and do not need those points to be repeated.

I'll do my best to ensure that everyone has the chance to speak. [Again, if you wish to speak, please use the 'hand raising' function.]

Based on the submitted information I consider the main issues in this case to be []. These are set out in the agenda which has already been circulated.

Are there any other questions regarding procedures at this stage? Then we shall then move onto the first item for discussion.

Closing

Before I close the hearing are there any outstanding documents or questions?

[If anyone asks when the decision will be issued, ask if they wish to be notified; if they do, take a note of their name, and email address (if we don't already have it)]

Thank you all for your contributions.

The hearing is now closed [or adjourned].

Annex H: Inquiry opening / closing script

Before opening

While waiting to open:

- Check the main parties are present and seated where you might expect

Introduction

Bore da bawb, good morning everyone. The time is [10 o'clock] and the inquiry is open.

Can everyone switch off their mobile phones or set them to silent.

Can everybody hear me? [if not please move closer]. If at any time anyone cannot hear please indicate and I will try and make arrangements so that you can.

In the event of a fire alarm [note fire exits, evacuation routes, assembly point, fire alarm testing/drills]

My name is []

I am the Inspector appointed by the Welsh Ministers to conduct this inquiry and to determine the appeal by [].

This appeal results from the decision of [LPA] to refuse planning permission for a proposal described as [] at [].

Before we start in earnest there are some formalities to complete.

(1 = English, 2 = Welsh, 3 = phonetic)

1	**During this event, we welcome participation through the medium of Welsh.**						
2	Yn ystod	y digwyddiad	yma,	mae croeso i chi	gymryd rhan	trwy gyfrwng	y Gymraeg.
3	Ugh nuh-stod	ugh-dig-Withy-ad	Um-ma,	mye Kroy-soy chee	Gum-rid Rhan	trooy Guv-roong	ugh-gum-Rye-gg.

1	**There are translation facilities here in order for you to do this.**				
2	Mae offer	cyfieithu	ar gael	yma i chi	wneud hyn
3	mye Off-err	kuv-Yaith-ee	arr Gyle	Um-mye chee	Nayd hin

[If translator is available, ask the translator to introduce themselves.]

[If translation has not been arranged, replace the second table above with:]

1	**There are no translation facilities here currently, but this can be arranged.**

2	Nid oes	offer	cyfieithu	ar gael ar	hyn o bryd,	ond mae'n bosib	trefnu hyn
3	Need oyce	Off-air	kuv-Yaith-ee	arr Guy-larr	hin oh Breed	ond myne Boss-sib	Trev-knee hin

Filming/recording

As it is likely to be disruptive, may deter people from speaking and raises serious data protection issues, It is PEDW policy not to permit filming or recording.

Appearances

I shall now take the names of those who wish to speak.

For the appellant:

advocate
[record name and whether Queens Counsel/Counsel etc and who instructed by]

witnesses
[record name, clarify position in organisation and qualifications]

Check order of witnesses being called

For the LPA/Council:

advocate
[record name and whether Queens Counsel/Counsel etc and who instructed by]

witnesses
[record name, clarify position in organisation and qualifications if necessary]

Check order of witnesses being called

Anyone else?

Is there anyone else who would like to say something at the inquiry?

I need to know:

- your name and address
- whether you are representing anyone or any group [and if you have authority to do so]
- whether you support or object to the proposed development
- any qualifications you want recording
- I assume you will be happy to answer questions on your evidence and to be cross examined?
- do you have any specific time restrictions?

If you speak, give evidence or ask questions during the inquiry your name will be listed in my decision letter.

If a large number:

- don’t need to hear the same evidence twice – not an effective use of inquiry time.
- consider nominating a representative/s who can deal with main points.

Is anyone from the press present? – add names to list

Notification letters

Can I have a copy of the LPA’s letters of notification

- of the appeal
- confirming the date, time and location of the inquiry and
- the list of those to whom the notification was sent

[if not already provided]

Has the LPA notified all relevant parties?

[check – were the letters sent to those they should have been, in time – are the details of the date, time and venue correct?]

[If the letters cannot be provided, were not sent or are incorrect – consider whether the interests of any parties would be prejudiced – is it necessary to adjourn the hearing to allow the correct notification to take place?]

Representations

I have copies of representations made in response to the:

- appeal notification
- original planning application consultation and the appeal notification

I will take these into account in reaching my decision

OR I have not received any representations in support or opposing the proposal.

[if there is any doubt about whether the main parties have seen all of these – offer the opportunity to check them - eg during an adjournment]

Proofs of evidence

I have received proofs of evidence [and summaries] from

Appellant

LPA

[Invited parties, if any – refer to them by name]

I have read all of these proofs and so I would expect them to be largely taken as read.

Are there any spare copies for interested parties?

[If for some reason, the main parties do not appear to have each other's proof, consider adjourning at the end of the opening]

Procedure

The procedure at this inquiry shall be in accordance with the Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017…

[And if one has been circulated]: …and my Pre-Inquiry Note

Are the parties familiar with inquiry procedures?

Short version – if all present are familiar [e.g. if there are no interested parties or members of the public present]

- Opening statements?
- Council's witnesses
- Appellant's witnesses
- [Invited parties' witnesses]
- Order in which witnesses will be heard (e.g., grouped by party or by main issue)
- Any matters to be dealt with in round-table sessions
- Conditions/obligations
- Closing submissions
- Costs
- Site visit
- If lasting more than 1 day can material be left in the room overnight?

Full version (necessary if interested parties or members of the public are present)

1. When I have concluded my opening remarks, I will invite the appellant and the council to each make a brief opening statement, which should be no longer than [5-15 minutes – depending on case]. This will help everyone to understand the main arguments.

2. [Then I will hear from any third parties who need to leave early]

3. The following main issues will be dealt with through formal presentation of evidence and cross-examination [list relevant main issues], and the following main issues will be considered in round-table discussion sessions led by me [list relevant main issues].

4. For the main issues that are being dealt with by formal presentation of evidence, I will ask the LPA to present their evidence first – so everyone can hear their objections to the proposal. We will hear from all the LPA's witnesses in turn OR

we will deal with the main issues one at a time, with the LPA's witness going first for each main issue [as applicable].

5. The appellant's advocate will have the opportunity to cross-examine each of the LPA's witnesses and the LPA's advocate may then put some questions in re-examination.

6. There will be an opportunity for questions from any interested parties intending to speak in support of the proposal and I may also have some questions.

7. [The witness(es) for any invited parties [use name of the invited party] will give their evidence next, following the same procedure.]

8. It will then be helpful to hear from local residents (and any other interested parties) opposing the proposals. Those who give evidence will normally be expected to answer questions on their evidence from the appellant's advocate and again, I may also have some questions.

9. I will then ask the appellant to present their evidence in the same way (i.e case/evidence – cross-examination by the LPA – re-examination by the appellant)

10. I will indicate when local residents and others who have indicated that they wish to speak and who oppose the proposal will be able to ask questions of the appellant's witnesses.

11. I will generally ask any questions I have during the evidence in chief or before re-examination. [or alternatively say that you may ask questions at any stage in the proceedings]

12. For the main issues that are being dealt with through round-table discussion, I will ask all the advocates and the witnesses for each main issue, together with anyone else who wishes to speak about the issue, to sit in the front row of seats / around the table. I will then lead a discussion on that main issue, inviting you to put your points to me and asking questions as necessary to inform my decision on the appeal.

13. When all the main issues have been dealt with, I will hear a discussion on conditions [and planning obligations]. This is standard procedure. It does not indicate that I have made up my mind on the case and does not weaken the LPA's continued opposition to the proposal or the appellant's case that planning permission should be granted. Is the list of conditions /in the agreed statement of common ground up-to-date?

14. I am not inviting any applications for costs but if anyone intends to make an application for an award of cost this should be done here before I close the inquiry. [note any receipt of written applications for costs or indications that a cost application will be made]

15. In addition, I have a power to initiate an award of costs, whether or not any applications have been made by the parties, and, if I were to do this, it would follow a written process with the relevant party after the appeal decision is issued.

16. I will then hear closing submissions from the LPA, [any invited parties – refer to by name] and the appellants [if requesting closing submissions in writing – the Regs require these to be provided before the close]

17. I have already visited the site on my own and am familiar with it and its surroundings. However, I will be making a site visit after I close the inquiry [I will need to be accompanied on the site visit by both main parties.] As the inquiry will have been closed, the site visit will be solely for me to see the site and surroundings – no discussion.

18. Any comments on this running order?

19. Request advocates sit all the time/stand all the time [usually sit unless standing necessary for audibility/visibility].

20. Please note the position of the witness table. This is where I will hear from the various witnesses at the relevant time.

21. If lasting more than 1 day can material be left in the room overnight?

Time estimates

This inquiry is scheduled for # days. I need to establish a programme to ensure that it runs efficiently.

Can I ask both [all the] advocates to advise me, as best they can, on their time estimates [note these on proforma] [alternatively, seek time estimates before the inquiry and then discuss them at the inquiry]

The LPA

- Evidence in Chief of LPA's witnesses
- Re-examination of LPA's witnesses
- Cross examination of appellant's witnesses

Invited party (if any)

- Evidence in Chief of own witnesses
- Re-examination of own witnesses
- Cross examination of opposing side's witnesses

The Appellant

- Evidence in Chief of appellant's witnesses
- Re-examination of appellant's witnesses
- Cross examination of the LPA's witnesses

[assess timings – following introduction and openings likely to have about 4 to 4.5 hours on first day and about 5.5 hours on subsequent days if sitting from 10am to 5pm with 1 hour for lunch and mid-morning/mid-afternoon breaks of 15 minutes each – but consider earlier starts on subsequent days. If solely virtual – build in more breaks]

[if necessary, outline targets for what will be covered each day]

I will break for lunch around 1 o'clock with short breaks in the morning and afternoon. I will seek the assistance of the advocates in finding suitable times to break mid-morning and mid-afternoon and aim to finish at around 5pm.

Documents

Secure any missing or final copies of documents (e.g. statement of common ground, planning obligations, conditions)

All documents and evidence should already have been provided – however, if you intend to submit any, please tell me now

If anyone intends to submit further evidence - ask

- Is the material relevant?
- Why was it not received in accordance with the timetable?
- Are there any exceptional circumstances for it being provided now rather than with the statement of case?
- Seek the views of the other parties – have they seen the material?
- Would an adjournment be needed (how long, same day, different day)?
- If necessary, warn about risk of costs application
- Decide whether to accept

Note that the other party/parties could apply for costs and the Inspector could initiate costs [if the behaviour is unreasonable and led to unnecessary expense]

Only exceptionally will material received after the close of the inquiry be taken into account.

Plans

Clarify which plans were before the LPA when it made its decision.

Clarify the status of any other plans (superseded, illustrative, revised plans provided at appeal)

If revised plans submitted at appeal – decide whether to accept – seek the views of participants:

- Would they materially change the proposal?

- Would any party be prejudiced – because they might have been denied an opportunity to comment

Main issues and other matters

The main issues as I see them are [].

Has anyone got any comments?

[Outline any specific questions you may have about the main issues, other matters or procedural matters.]

Commence

That concludes my opening remarks

Are there any queries about the procedure or other matters before we start?

In that case may I ask the appellant's advocate to make a short opening statement.

After all the evidence has been heard and the discussion on conditions and on any planning obligation(s) has taken place:

Costs applications

Are there any applications for costs?

Listen to any costs applications

- Is the application available in writing? (if not already provided)
- Explain procedure – application – response – final comments on any new points
- Remind party they need to demonstrate unreasonable behaviour which has resulted in unnecessary expense
- Note that references should be made to the relevant sections within the government's Planning Practice Guidance regarding costs (under "Appeals"
- Please proceed at a steady pace – need to take notes [If costs application made or added to orally]
- Seeking full or partial award?
- Allow the other party an adjournment to consider response if necessary [if the application is made verbally or a written application is added to]

or if the costs application has already been made in writing:

- Do you still wish to proceed with your written application for costs?
- Do you intend to add anything to the application?
- Allow the other party to respond

- Any final response

Site visit

I shall now make arrangements for the site visit.

Are there any safety issues to be aware of?

[Accompanied or unaccompanied?]

Who will attend for:

- appellant
- LPA
- Any invited or interested parties (or representatives)?
- Invited and interested parties need permission of appellant/landowner to go on appeal site

I will close the inquiry here - consequently:

- Purpose is for me to see the site
- Can point out physical features
- But will not listen to any further discussion of merits

Check how long to get to site?
Discuss any travel arrangements [if travelling with the appellant and LPA]
Confirm time and best place to meet
Deal with arrangements to visit any other sites
Confirm any parking arrangements

Closing

Before we leave are there any outstanding documents or questions?

[If anyone asks when the decision will be issued, ask if they wish to be notified; if they do, take a note of their name, and email address (if we don't already have it)]

Thank you all for your contributions

The inquiry is now closed

End of day adjournment

Suitable point to adjourn the inquiry

Run through check list of outstanding documents/work and who is responsible

Is it possible to leave material in this room overnight?

Inquiry is adjourned until [time, date, place]

Resumption on subsequent day

Good morning, the time is now ** o'clock and I shall resume this inquiry into the appeal made by [] against the decision of [] to refuse planning permission for []

This is the second day of the inquiry

First the usual reminders:

- mobile phones off or silent
- aim to break for lunch around 1pm, finish if at all possible by 5pm with suitable breaks mid-morning and afternoon.

On the first day I heard from: []

In a moment I will hear from: []

Before I do

- does anyone else wish to speak today who has not already indicated that they wish to do so?
- are there any procedural or housekeeping matters?
- ask for any documents previously requested

Annex I: Inquiry programme template

1. Inspector's opening remarks

2. Opening statements (Appellant then LPA)

4. LPA's formal evidence

First witness

		Time estimate
1	LPA's evidence in chief	
2	Cross examination (by appellant's advocate)	
3	Any interested party questions from supporters of proposal	
4	Inspector questions	
5	Re-examination (by LPA's advocate)	
		Total -

Second witness

		Time estimate
1	LPA's evidence in chief	
2	Cross examination (by appellant's advocate)	
3	Any interested party questions from supporters of proposal	
4	Inspector questions	
5	Re-examination (by LPA's advocate)	
		Total -

[*If there are invited parties - insert additional boxes here for their witnesses*]

5. Interested persons (opposing proposal)

Hear (1) evidence, then generally (2) appellant's questions and (3) Inspector questions.

1	
2	
3	

6. Appellant's formal evidence

First witness

		Time estimate
1	Appellant's evidence in chief	
2	Cross examination (by LPA's advocate)	
3	Any interested party questions from those opposing the proposal	
4	Inspector questions	
5	Re-examination (by appellant's advocate)	
		Total -

Second witness

		Time estimate
1	Appellants evidence in chief	
2	Cross examination (by LPA's advocate)	
3	Any interested party questions from those opposing the proposal	
4	Inspector questions	
5	Re-examination (by appellant's advocate)	
		Total -

7. Interested persons (supporting proposal)

Hear (1) evidence, then generally (2) LPA's questions and (3) Inspector questions.

1	
2	
3	

8. Round-table sessions (if any)

9. Conditions and planning obligations

10. Closing submissions (Generally LPA, invited/statutory parties, then appellant)

11. Costs applications

12. Site visit arrangements

13. Close inquiry

Annex J: Inquiry Core Documents list

(Adapt headings to suit)

CD1	**Application documents and plans**
1.1	
1.2	
CD2	**Additional/amended reports and/or plans submitted after validation**
2.1	
2.2	
CD3	**Committee Report and Decision Notice**
3.1	Officer's Report and minutes of committee meeting
3.2	Decision Notice
CD4	**Development Plan**
4.1	
4.2	
CD5	**Relevant appeal decisions***
5.1	
5.2	
CD6	**Relevant judgments***
6.1	
6.2	
CD7	**Other**
7.1	
7.2	

* Appeal decisions and legal citations on which a party intends to rely must each be prefaced with a note explaining the relevance of the decision/citation to the issues arising in the case, together with the propositions relied on, with the relevant paragraphs flagged up.

Annex K: Disruptive parties and unacceptable behaviour

1. This annex provides advice on the steps to follow when the usual methods for managing disruption at events fail and more serious action is required.

What constitutes disruptive or unacceptable behaviour?

2. Disruptive or unacceptable behaviour includes anything which interrupts the smooth running of an event and prevents you from focusing on the arguments, or any party from making their case; and any behaviour, to you or any other party, which may be regarded as rude, abusive or defamatory. For example:

    - Threats or shows of aggression.
    - Constant low-level interruptions, particularly if aimed at destabilising another party's attempt to make their case.
    - Abusive or threatening speech, written material or clothing that expresses prejudice against a particular group, e.g., on the basis of race, religion, or sexual orientation.
    - Defamatory remarks or allegations made against an individual or organisation, whether or not they are present.

3. If a party is discovered to be filming or recording they should be warned that refusing to stop constitutes unreasonable behaviour.

4. PEDW has a duty of care to its staff. All staff are entitled to carry out their duties without fear of abuse or harassment and are expected to be treated with courtesy. If the unacceptable behaviour is directed at you, you will be fully supported in taking appropriate action.

What action should I take?

5. If any of the above activities occur at an event, you should take immediate action, using the powers and techniques available to you.

6. Legislative and administrative powers include the following:

    - Regs 33(9), 40(4) and 45(10) allow Inspectors to require participants at hearings, pre-inquiry meetings and inquiries to leave if they are being disruptive (although you must tell anyone required to leave that they may submit any evidence in writing before the close of the event). You may refuse to allow the person who has been asked to leave to return or permit a return only upon specified conditions. Regs 32(1) and 39(1) also allow you to proceed in the absence of any person entitled to appear at the hearing or inquiry.

    - Delays caused by disruptive behaviour may be dealt with through costs awards, which Inspectors may initiate.

- Professional standards also apply to some witnesses and advocates. Bullying and aggressive behaviour may be dealt with via complaint to the governing body.

- Section 4(1)(a) of the Public Order Act 1986 states that a person is guilty of an offence if he uses towards another person threatening, abusive or insulting words or behaviour with intent to cause that person to believe that immediate unlawful violence will be used against him or another by any person, or to provoke the immediate use of unlawful violence by that person or another, or whereby that person is likely to believe that such violence will be used or it is likely that such violence will be provoked.

7. If a party's behaviour becomes disruptive:

    - Explain why their behaviour is unreasonable (e.g. that it is not respectful or courteous to others) and that if they continue you will adjourn to give them time to calm down. If necessary/appropriate you could set conditions for their return (see Regs 33(9), 40(4) and 45(10) above). Explain that if you are forced to adjourn because of their unreasonable behaviour you have the power to instigate an award of costs against them.
    - That if they continue to behave unreasonably you will invoke your powers under the Regulations and have them removed from the event.
    - That if they are removed they may submit any evidence or other matter in writing before the close of the event; but if they are a main party, you will either hear the other parties' cases and proceed to a decision or, if the excluded person attempts to thwart the proceedings by refusing to co-operate thereafter (e.g. by denying access to a site), to dismiss the appeal under S79(6A) (for standard planning appeals).

8. All the above needs to be properly documented in order that any subsequent complaint or challenge may be defended.

9. If a party refuses to leave an in-person event, adjourn and request the LPA to use its security team to accompany the disruptive person from the premises. If that is not possible, or in the event of serious disruptive behaviour or threat, call the police and inform your Inspector Manager.

Suggested text for requiring an appellant, agent or advocate to leave an event

To Appellant/Agent:

Mr/Ms X, I have asked you on 3 occasions now not to interrupt me/AN Other. If you do so again I will exercise my powers under [Regulation 33(9) [hearing], 40(4) [pre-inquiry meeting], 45(10) [inquiry]] of the Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017 and require you to leave. I will consider whether to make an award of costs against you/your client for unreasonable behaviour.

If relevant: [I will also take action to report your unreasonable behaviour to your Professional Institution.]

Barrister/Solicitor:

Mr/Ms X, I have asked you on 3 occasions now not to interrupt me/AN Other. If you do so again I will exercise my powers under [Regulation 33(9) [hearing], 40(4) [pre-inquiry meeting], 45(10) [inquiry]] of the Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017 and require you to leave. I will consider whether to make an award of costs against your client for unreasonable behaviour. I will also take action to report your unreasonable behaviour to [The Bar Standards Board] [The Law Society].

Annex L: Example of a pre-inquiry note

(This note relates to a called-in inquiry under s77 but can be appropriately adapted for other inquiries)

Appeal Ref / Proposal / Address

The Inspector has read the file and having regard to the matters on which the Welsh Ministers wish to be informed sets out below the issues, which need to be addressed in evidence.

1. Issues to be addressed at the inquiry

The call-in letter will form the basis for this section – however if a hybrid procedure is being followed, make it clear which of the main issues are being dealt with via the inquiry hearing, or written representations procedures.

2. Appearances

The Inspector should be notified of the names of the advocates and whom they propose to call within 4 weeks of the date of the inquiry [insert a date] by means of an email to PEDW. [if not already provided].

3. Venue, dates and times of sitting

The inquiry will open on [] and is expected to last for up to [] days.

The inquiry will be held online on the Microsoft Teams platform. OR The venue for the inquiry is []. The LPA should ensure that the venue is accessible. [and that simultaneous translation has been arranged.]

The inquiry will open at 1000 hours on the first morning and thereafter it will resume daily at 0930 hours. Normally, the inquiry will adjourn at about 1700 hours every day. A break for lunch will normally be for one hour at a convenient point and there will be mid-morning and mid-afternoon breaks of about 15 minutes each.

4. Accommodation and facilities at the inquiry

The Inspector should be provided with a retiring room and a parking space.

5. Inquiry procedure

The procedure at the inquiry will generally follow the Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017. Whilst normally the LPA would present their case first, as the LPA are in support of the called-in application, the applicants will be invited to present their case first.

6. Programming the inquiry and inquiry timetable

The Inspector will wish to ensure that inquiry time is efficiently used. He/she asks that all advocates provide their estimates of the time they expect to take in evidence in chief and cross-examination. He/she requests that this information should be received no later than 2 weeks before the inquiry opens i.e [insert date]. This will enable him/her to programme the inquiry before it opens and send the timetable to all parties in advance.

7. Form of evidence and opening and closing statements

A. Proofs and summaries

The timetable for receipt is as set out in Regulation 44 i.e 4 weeks before the start of the inquiry, [insert a date]. This deadline applies to all participants at the inquiry. Parties are reminded of the strict application of the Regulations by PEDW – proofs received out of time will be returned.

There is no provision within the Regulations for rebuttal or supplementary proofs. However, where these may save inquiry time arrangements will be made for their acceptance and circulation if the Inspector is notified in advance. Any such supplementary or rebuttal statements should be submitted at least 1 week before the inquiry and marked for the attention of the Inspector.

Units of measurement should be in metric and all documents should be numbered and prefixed by something which identifies the author e.g. LPA1. Appendices should be tabulated and paginated and filed separately from the proofs.

The Inspector will want 2 copies of each proof of evidence, one for submission to the Welsh Ministers and one for use at the inquiry, but only one copy of any appendices and the core documents. A copy of the proofs and documents should be available for each main party who intends to take part in the inquiry. A further copy should be available on the day of presentation of any evidence in case of any third party interest.

All proofs/documents should be numbered in sequence and a list kept by each main party to give to the Inspector on disc at the end of the inquiry.

B. Statements of common ground (SoCG)

Parties are encouraged to submit statements of common ground (SoCG) where this would assist in narrowing and defining areas of agreement or disagreement. Any SoCGs should be received by no later than [].

C. Core Documents

The Inspector requests that all parties agree on a list of core documents (CD) to be referred to by those giving evidence. Appendices to evidence should contain only those documents not already included in the CD bundle. The CD list should be

prepared by the LPA and received by the Inspector on disc in MS Word at least 4 weeks before the inquiry i.e [insert date].

D. Opening and closing statements

Opening statements:

All main parties will be permitted to make an opening statement at the beginning of the inquiry. Opening statements are to be produced in writing and shall not exceed 15 minutes in length. The statement should be given a document number within the relevant parties' series.

Closing statements:

These are to be emailed to PEDW as an MS Word document. The Inspector will endeavour to make time within the programme to permit this. Closing statements should follow the issues set out and should provide a summary of the case to be put to the Welsh Ministers. In his/her report to the Welsh Ministers it is the Inspector's intention to use the closing submissions as the basis of his/her summary of a party's case.

Closing statements should be concise and written in a simple format – e.g.:

- Arial 12 pt with consecutive paragraph numbers;
- Use subheadings only where needed to maximise clarity
- References to documentary evidence to include relevant document number, page and paragraph (whether a core document, appendix to a proof or a proof)
- Reference to oral evidence should give the day of the evidence, the name of the witness and whether given in evidence in chief, in cross-examination or in re-examination.

Subheadings should be in bold and sub-subheadings in italics. Minimal additional formatting should be used to avoid complications when the text is pasted into the report.

The Inspector recognises that closing submissions may be subject to some alteration and elaboration when given orally and so he/she should be supplied with a type written double spaced transcript, which he/she can annotate at the time and insert where appropriate into the text supplied on disc. The transcript should be given a document number within the relevant parties' series and provided before the close of the inquiry.

The co-operation of all parties with this advice will assist the Inspector in producing his/her report quickly.

8. Conditions and obligations

Conditions: Proposed conditions should be supplied by email to PEDW, ideally as part of a statement of common ground. Any alternative wording of, or additional, conditions proposed by any party should also be supplied.

Planning obligations: The parties are reminded that any obligation that is proposed must be signed and sealed before the close of the inquiry. A draft of the proposed obligation should be received at least 10 days before the inquiry.

9. Site visits

The Inspector will look at the site and its surroundings informally before the inquiry but will carry out formal accompanied visits during or after the inquiry. If there are any other sites which any party consider he/she needs to visit a list should be given to the Inspector at the opening of the inquiry. This can be added to during the inquiry.

Annex M: Pre-Inquiry Meeting agendas

The agenda for a Pre-Inquiry Meeting (PIM) is for you to determine, having regard to the circumstances of the case. The following advice may be useful in preparing an agenda. It can also be useful to prepare a draft note outlining your expectations and a timetable (which can then be the basis of your formal note of the PIM).

1. Introduction

Introduce and explain the role of any Assistant Inspector, Assessor and/or Programme Officer at the outset. It may be sensible to clarify the details of the proposals under consideration, particularly if the scheme has undergone amendments subsequent to the initial application. It should be emphasised that the PIM is solely procedural in nature and that no discussion of the merits of the proposal will be heard, especially if there are a number of third parties present. Finally, you should explain to all parties that inability to attend or to be represented at the PIM in no way prejudices any right to make representations at the inquiry.

2. Inquiry venue and accommodation arrangements

If it is an in person event, check the adequacy and suitability of the accommodation for the numbers expected to attend the inquiry, particularly in its opening phase; arrangements for simultaneous translation; the need for a public address system; the availability of a retiring room for the Inspector and of consultation rooms for the principal parties; the provision of photocopying and telephone facilities; etc. In long complex and/or particularly contentious inquiries where disruption might occur, or a high degree of media interest is expected the physical arrangements for the inquiry will need particularly careful consideration.

3. Inquiry dates and sitting times

Regulation 41 allows you to prepare a timetable and vary this during the inquiry as necessary. In considering the timetable it will also be necessary to address what would be a suitable order of case presentation, whether evidence will be presented in-person or virtually, the possibility of hearing evidence on a topic basis and, for multi-appeal cases, the merits of dealing with policy or strategic issues at a plenary session.

It will also be necessary to assess the extent of public interest and make an estimate of the time interested persons are likely to need to present their evidence. The question of evening sessions may arise, particularly if a significant level of local interest is involved. In multi-appeal cases the possibility of dealing with policy and strategic issues (as opposed to site specific matters) at a plenary session may need to be addressed as well as the desirability of short opening statements being made by the principal parties on the first day of the inquiry.

4. Procedural matters

The PIM is an opportunity to clarify the following matters and save time at the opening of the Inquiry:

- Description of the proposed development and list of plans,
- Missing documents
- Procedural matters on which you need clarification,
- Identify relevant development plan and national policies. Is any clarification necessary?
- Suggested conditions,
- Planning obligations,
- Time estimates and running order,
- Deadlines for proofs and summaries (for any statements of more than 1,500 words).

Main issues and areas of common/uncommon ground

The Regulations require the Inspector to identify at the start of all inquiries what he or she considers to be the main issues.

For longer inquiries, the PIM presents the opportunity for these to be aired at an earlier stage in the process. At the PIM you should therefore identify what you see the issues as likely to be, the method of hearing oral evidence (whether inquiry or hearing, virtual or in-person) and invite comments from the parties. This exchange can have a considerable influence on the shape and form of the inquiry itself.

It also presents a good opportunity to focus the parties on what is needed in any statements of common ground and to emphasise that they need to use the time before the inquiry to meet informally and to narrow further the issues for discussion. Statements of common ground should as a minimum cover matters such as the site and surroundings, planning history, relevant policies, and agreed conditions and planning obligations. In addition, where the case involves complex topics of evidence, the basic technical and statistical information underpinning those subject areas can usefully be agreed because, this helps the parties to clarify and refine the fundamental matters in dispute. It can be particularly helpful for the parties to set out the areas on which they disagree.

The PIM also offers an opportunity for you to draw to the parties' attention any deficiencies you have identified in the documentation. If this includes the Environmental Statement (if one has been provided) the PIM presents an opportunity to ask the promoter how they intend to remedy any deficiencies before the inquiry.

5. Nature and format of evidence

Arrangements for the receipt of proofs of evidence should cover written summaries of proofs as required by Regulation 44. It needs to be stressed to the parties that summaries are required and must be sent to the Inspector at the same time as the proofs of evidence and no later than 4 weeks before the inquiry (or other date specified by you). If written statements or summaries are to be read, then arrangements for the public deposit of proofs of evidence need to be made for the benefit of interested parties. Parties should be reminded that legal/closing submissions will be required in writing before the close of the inquiry.

In cases which may generate large amounts of detailed technical evidence (e.g. retail trade impact or traffic), you should ask the case officer to dispatch letters setting out the key topics on which basic information needs to be presented to inform the issues in dispute, if this has not already been done. These letters should be sent out before the PIM to focus the parties on some of the matters that will be discussed at the PIM.

6. Listing, numbering and availability of documents

Agree document numbering conventions.

It is generally helpful for proofs and documents to be numbered to identify the party originating the document; for documents to be numbered in sequence separately from proofs; for each party to keep a list of the documents they have sent and to give it to you at the end of the inquiry; for appendices to be kept separate from proofs and be indexed, tabulated and paginated; and for there to be a set of core documents. Documents should be bound in such a way that bindings can be undone quickly without damaging the document.

Time can be saved at the opening of the inquiry by asking the main parties to provide details of their professional witnesses in advance.

7. Inquiry library

At in-person events, arrangements should be made for the assembly of core documents and other relevant material such as application plans, proofs, appendices, and summaries, to form the basis of an inquiry library. Responsibility for its upkeep throughout the inquiry needs to be allocated amongst the main parties and arrangements made for its location during the inquiry. Arrangements also need to be made for the placing of inquiry material on deposit at the LPA's offices before the inquiry so that members of the public may see them.

Annex N: Oaths and affirmations at inquiries

1. Where there is clearly a dispute of fact, which will apply in s174 appeals on legal grounds and s195 existing use cases, then evidence should be taken on oath. However, in cases where the legal issues are dealt with entirely in submissions it may not be necessary. Where there is any doubt it is better that witnesses be sworn. If either party asks that evidence should be taken on oath the Inspector should agree, unless it is patently unnecessary.

2. The sanction behind the administration of an oath or affirmation is provided by the Perjury Act 1911. If a person lawfully sworn as a witness in a judicial proceeding wilfully makes a statement material in that proceeding, which s/he knows to be false or does not believe to be true, s/he shall be guilty of perjury. Seven years imprisonment is the maximum penalty for perjury in a "judicial proceeding" – which includes a proceeding before any court, tribunal or person having, by law, power to hear, receive, and examine evidence on oath such as a person appointed by the Welsh Ministers, for example a Planning Inspector.

3. The other potential sanction is that a decision may be overturned in the High Court if it is subsequently found to have been based upon false or misleading evidence that was given at the Inquiry. Given that evidence will be given remotely, the concern is that witnesses may not appreciate the solemnity of the situation as much as they might do in person. To reinforce formality and to bring about full compliance, the Inspector should ask the witness to confirm that they have understood the importance of giving evidence on oath/affirmation.

4. If you require a witness to take an oath or to make an affirmation as part of an inquiry remotely the default position will be an affirmation. If a witness would like to take an oath using a sacred object, the witness should provide their own Holy Book or Scripture. If one is not available the witness should make an affirmation. Regardless of how they choose to make this verbal statement of fact, the witness will be bound legally to tell the truth.

5. It should not, ordinarily, be necessary to adjourn an inquiry on the basis that the evidence needs to be sworn at a physical event providing that the guidance is followed.

Practical considerations

6. In opening to the witness[5], the Inspector should explicitly refer to the consequences of failing to give truthful evidence (outlined above).

7. The Inspector should ask the individual to confirm that they are alone in the room. If the witness is not alone the Inquiry should be adjourned and the room cleared. If the party's barrister is unable to retire to a place where they can observe cross-examination they may be permitted to remain in the room.

[5] In a live event, witnesses are asked to stand and take the oath. In a virtual setting, the witness can remain seated when taking the oath.

8. The witness should be informed that they should not be in communication with anybody else including by mobile phone whilst they are giving their evidence. They should be told to turn off any mobile phones.

9. The Inspector must make clear to the witness that s/he is not allowed any notes or papers, whether hard copy or electronic, in front of them when giving evidence, other than the relevant bundle – likely in electronic form.

10. The Inspector may ask witnesses to positively confirm their compliance as much as they can during the Inquiry reinforcing the seriousness of giving evidence on oath. The Inspector must make clear these rules apply for the whole period from taking the oath/affirmation to the conclusion of their evidence, including during any adjournments. This includes any overnight break if the evidence is not concluded within a single day. The witness must be told not to discuss their evidence with anyone, including family members, during any such adjournments. Before any adjournment during cross-examination, the witness should be asked to confirm their compliance with these rules.

11. Occasionally, it may be necessary to remind those giving evidence that they are under oath, for example, just before the witness starts/resumes to give evidence. If the Inspector suspects that the witness is being fed answers either by someone who has remained in the room or by phone. This may be because the witness appears to be overly distracted when replying to opposing advocate's questions or tends to look/gaze downwards after every question. The Inspector should intervene and ask searching questions. S/he can ask the witness to pick up their laptop and do a 360^0-circle round-the-room. Witnesses might also be asked to show their hands if the Inspector considers it necessary or appropriate. It may be of course that they are in an office environment, but the Inspector may still need to be sure the witness is not being improperly influenced and is on their own.

12. All witnesses of fact will need to be equally on oath but there is no need to require professional witnesses (for example, agents or lawyers) to be on oath unless they are giving evidence of fact themselves.

13. Some witnesses may require an interpreter when giving evidence; if so arrangements may be required to facilitate the giving of evidence via a translator.

Forms of oath

14. The script may be differently worded for ease. For example, Mostyn J in the Family Court uses a short form of oath: *Do you swear or affirm to tell the truth, the whole truth and nothing but the truth?*

15. The basic form of oath is to use the General Affirmation:

> I, ……, do solemnly, sincerely and truly declare and affirm that the evidence I shall give at this Inquiry shall be the truth, the whole truth and nothing but the truth.

16. Bear in mind, however, that asking members of religions to affirm, when this could be considered to be not binding on their conscience, may leave a decision open to challenge. You should therefore give witnesses the opportunity to take an oath in the manner that best ties their conscience. You may need to liaise with the office to ensure that the appropriate holy book(s) are available.

17. Forms of religious oath are as follows:

- **Follower of Hinduism** (Taken on the Gita): "I swear by the Gita that the evidence I give shall be the truth the whole truth and nothing but the truth."
- **Follower of Judaism** (Taken on the Old Testament) or Christianity (Taken on both Testaments or New Testament alone): "I swear by almighty God that the evidence I shall give will be the truth the whole truth and nothing but the truth."
- **Follower of Islam** (Taken on the Qur'an/Koran): "I swear by Allah that the evidence I shall give will be the truth, the whole truth and nothing but the truth."
- **Follower of Sikhism** (Taken on the Sunder Gutka): "I swear by Waheguru [or Guru Nanak] that the evidence I shall give shall be the truth, the whole truth and nothing but the truth."

Planning and Environment Bar Association (PEBA) Guidance on Non-Contact Rules and Professional Conduct

18. All barristers, solicitors, chartered planners and other professional witnesses are subject to their respective professional body's code of conduct in respect of conduct of litigation.

19. Separate communication to witnesses during the giving of evidence or during breaks would amount to a serious professional matter and will be reported accordingly.

20. To avoid any accidental sharing of information, advocates/representatives will ask witnesses to confirm at the start of their evidence that they have closed all e-mail and messaging platforms and are physically separated from any other team members. They must adhere to these throughout the presentation of their evidence. Particular care must be taken in respect of longer breaks in evidence, e.g. overnight.

21. Participants using messaging platforms to communicate with their team (such as WhatsApp) are reminded to check, before sending messages through that platform, that a witness who is currently giving their evidence is not part of the virtual "group" that will receive the message, to avoid the inadvertent receipt of messages during the giving of evidence.

22. If an advocate requires instructions from their witness (in respect of a separate matter), this should be delayed until after conclusion of the oral evidence. Inspectors may wish to grant parties additional time to address such matters.

23. Despite the above cautionary note, there is no requirement for significant adaptation to the existing practices, which is built on high standards of professionalism and trust.

Annex O: Requests for a witness summons

1. The Inspector (not WG or PEDW) has the power under Section 250(2) of the Local Government Act 1972 to issue a summons. It is a power that is used very rarely and should be exercised with extreme caution and only as the very last resort.

2. Government departments generally undertake to provide a representative to give evidence if they are requested to do so. Similarly, the attendance of local government officers should normally be secured by agreement, unless they specifically state that attendance will only occur if a summons is issued.

3. Parties applying for a summons should be made fully aware that they are required to pay out-of-pocket expenses, including compensation for loss of earnings where appropriate, to the witness they want to be summonsed. The party who applied for it must serve the summons and they are liable for any costs involved. If these responsibilities are accepted, you must then consider the case for issuing the summons.

4. Before issuing a summons you must be reasonably satisfied that:

    - the evidence to be given by the witness is likely to be material to the case
    - the witness is the appropriate person to give the evidence
    - they will not come unless a summons is served
    - the production of a sworn affidavit would not obviate the need for personal attendance.

5. If you decide that a summons ought to be issued the proceedings may have to be adjourned (to a fixed date) because the summons has to be drawn up and has to be signed by you personally. An alternative is to continue with the inquiry, hearing other evidence until the date on which summoned witnesses are required to attend. In either case, you will need to know the name and address of the person requesting the summons, the name and address of the person summoned (the witness) and what documents, if any, the witness may be asked to produce. You need to get written confirmation from the person requesting the summons that they are prepared to meet all justifiable costs.

6. You may, very exceptionally, find it necessary to issue a witness summons of your own volition to elicit information which has not been forthcoming from the case as presented by the parties and where the parties have declined your invitation to adduce further evidence. You should bear in mind that PEDW will have to pay expenses to the witness. You should consult the office before embarking on this course.

7. If a witness fails to appear in response to a summons, the inquiry must be continued, and the non-appearance reported to the office. The party who requested the summons may commence legal proceedings. However, it should be noted that if a witness does appear, and refuses to give evidence, he or she may be liable on summary conviction to a fine or imprisonment.

Annex P: Long inquiries

1. A long inquiry will normally benefit from a pre-inquiry meeting (see earlier advice). The importance of thorough preparation, including any specific requests you might have of the parties, cannot be over-emphasised. An effective PIM establishes your authority and gives the parties confidence in you, besides ensuring that the inquiry runs smoothly and efficiently.

2. A long inquiry, particularly those involving considerable numbers of participants, will also normally justify being arranged as a primarily in-person event. However, it may be that some participants wish to participate virtually; if so, that should be arranged. It will therefore be important that the venue is able to handle a 'blended' event, i.e. benefits from advanced video-conferencing facilities.

Programme Officers

3. A Programme Officer may be appointed to assist you in the administrative and procedural aspects of a long inquiry, particularly one with many participants. Whilst this happens exceptionally, it can be of considerable benefit to the Inspector. The parties should therefore be encouraged to supply such an officer. However, discretion needs to be exercised if the impartiality of the Programme Officer is not to be questioned and the principles of natural justice prejudiced.

4. It is unlikely that a Programme Officer provided by the appellant or by one of the interested parties would be generally accepted as being impartial. Nor is it probable that such an officer would be able to attend at the inquiry venue for long periods before the opening of the inquiry. The LPA is clearly the most appropriate source. However, it would not normally be appropriate to appoint someone who previously had been involved in the case. Someone associated with the LPA's planning department may be acceptable, subject to the following paragraph.

5. The Programme Officer upon appointment must be accepted and recognised by all as an officer of the inquiry responsible to and under the sole direction of the Inspector. During the pre-inquiry period and throughout the inquiry itself, the Programme Officer must be and must be seen to be completely impartial. You should make these points, at the PIM and at the opening of the inquiry, with some emphasis.

6. The extent to which you can delegate tasks will depend upon the individual capabilities of the Programme Officer, who ideally should be a calm, competent person and a thorough organiser, capable of working without supervision. It is essential that the Programme Officer is capable of dealing directly with the public. The principal duties should be solely related to administrative and procedural matters. In particular the Programme Officer could be responsible for:

    - maintaining a list of all those attending the PIM and the inquiry
    - taking notes at the PIM and drafting a note for you to approve for circulation (although you may find it preferable to adapt any notes made before the PIM for this purpose)

- organising the inquiry programme, under your direction, in such a way as to secure the efficient running of the proceedings with as little inconvenience as possible to all the parties
- ensuring that the necessary physical arrangements have been made for the inquiry, e.g. the layout of the inquiry room and the provision of photocopying facilities
- dealing with pre-inquiry correspondence on programming and coordinating/advising on a day-to-day basis of times of attendance at the inquiry
- acting as a control co-ordinator for the receipt and distribution of proofs of evidence and ensuring that all documents received before and during the inquiry are properly recorded and distributed
- holding a master set and up-to-date schedule of all proofs of evidence and other documents
- preparing and keeping up to date the list of appearances and documents
- where a number of sites have to be visited after a long inquiry the Programme Officer may be able to plan the visits. This must be done under your direction, since you are responsible for compliance with the procedural rules.

7. The Programme Officer should be provided with a desk and a telephone outside the inquiry room, if possible near the main entrance.

Assistant Inspectors

8. Assistant Inspectors have been appointed in a number of very long inquiries. Although their status is not established by any reference in the Regulations, no objection has been received to their appointment. An Assistant Inspector operates at all times under your authority, as responsibility for the running of the inquiry and the contents of the report must remain with the appointed Inspector. An Assistant Inspector assists you over the whole range of duties, both during the inquiry and in drafting the report. The Assistant is thus able to relieve the pressure on you during the inquiry and contribute to a significant reduction in the time taken to submit the report.

9. Amongst other things, you may ask the Assistant Inspector to:

- Follow the proceedings at all inquiry sessions conducted by you, taking notes and asking questions of the witnesses as appropriate.
- Conduct sessions of the inquiry on specific topics, on behalf of, and always in your presence.
- Maintain the master set of core documents, ensure that they are correctly numbered, and hand you a copy of any document referred to.
- Draft parts of the report, including sections on particular topics.

10. The Assistant Inspector should attend the PIM and, if possible, all sessions of the inquiry and all accompanied site visits. In the unlikely event of your becoming ill after the inquiry has been opened, it would thus be possible for the Welsh Ministers to appoint the Assistant Inspector in your place if this seemed

appropriate in the circumstances. In this way the need to re-start or re-open the inquiry could be avoided.

Planning Officer

11. If you are provided with a Planning Officer you should briefly introduce them and explain his or her functions at the PIM and at the start of the inquiry. You should make it clear that the work undertaken by the Planning Officer is not in substitution for your performance of your own function. You should also make it quite clear that irrespective of the help the Planning Officer gives, you will consider all the evidence and representations and the reasons given for the decision or recommendation will be yours alone. As is the case with, for example, summary material supplied by LPAs or report drafts prepared by an Assistant Inspector, it is important that you should read the background material and be satisfied that the summary or draft is accurate and reasonable before adopting it as your own.

The inquiry

12. Long inquiries often create unusual situations. The opening tends to take longer than usual, but not so much longer if an effective PIM has been held. The following may need to be covered in addition to the usual preliminary points:

- Introduce and explain the role of the Assistant Inspector, Assessor, Planning Assistant and Programme Officer as appropriate. Announce the Programme Officer's telephone number and contact address.
- Announce the fact that a PIM has taken place, emphasising that it was concerned only with the arrangements for the inquiry and that no evidence or representations were heard. Ensure that copies of the letter recording the points made at the PIM are available, particularly to those who were not present. It is often useful to include this letter or the notes of the PIM as an inquiry document, and you can then refer to it in the preamble to the report.
- If it has already been arranged, work out the programme in as much detail as practicable, taking into account the convenience of all parties. Third parties, particularly local residents, often find it difficult to attend all daytime sessions, so it is advisable to identify a particular session later in the programme when they will be heard.
- At the PIM you should have agreed a simple system for the numbering of documents, proofs etc. This should enable them to be kept in order and retrieved quickly and other documents added to the list as they are received, so that the list is continually updated. You should remind the parties of the agreed numbering system when you open the inquiry
- establish the number of copies of statements and other documents required to be available for distribution at the inquiry. Again, this should have been covered at the PIM but can be confirmed if necessary at the inquiry.

13. The opening day, particularly the morning, usually has the highest attendance both of the public and the media. Although it must be a secondary consideration, if possible arrange the programme so that long and detailed discussion of preliminary matters is avoided. Not only does it give a good public impression of

the inquiry process, but it also prevents restlessness and frustration, which can cause problems for you. Ways of achieving this include:

- When taking the appearances obtain the particulars of only the main parties at the inquiry; ask all others who are not already listed on the programme to hand in names and addresses to the Programme Officer.
- If a PIM has not been held and the programme cannot be worked out quickly, defer it until after the lunch adjournment. It may be possible for the Programme Officer to sort out the problems of individual parties during the adjournment and prepare a draft programme for the Inspector's approval in the afternoon.
- Provided it is not of major significance, defer any points about the terms of the application and exactly which plans and letters form part of it.
- Announce the number of representations already received and ask for any further representations to be handed in but do not attempt to check that the principal parties have copies of them all. Ask the Programme Officer to prepare a list and to check this with the parties so that the position can be confirmed later in the inquiry.

14. At a major public inquiry with a lot of media and local interest it is particularly useful for all main parties represented by a professional advocate to give a short opening statement, one after the other before the evidence for the first party is heard. This helps all those present to understand what the inquiry is about. If a PIM has been held this can have been suggested and agreed then.

15. It is sometimes advantageous to organise the programme on a "topic" basis rather than the usual case-by-case sequence. This is particularly appropriate where there are a number of clearly defined issues with a considerable technical content; all the evidence on an issue can thereby be heard together, so helping you to absorb the evidence and saving the time of technical witnesses (and perhaps of the Assessor). But it is good practice to obtain the agreement of the parties to this course and to give them plenty of warning by raising it at the PIM. It can result in some untidiness; for instance a third party whose case centres on the issue in question but who wishes to mention other aspects may not be able to come back on a different day to complete his case. Even when a topic basis is adopted it is often advantageous to allow residents, at sessions organised specifically to hear members of the public, to deal with all relevant topics.

Evening sessions

16. Evening sessions may occasionally be necessary when it is impossible for people to attend an inquiry during the day. It should be remembered that countless tribunals nationwide are held during the day and most people can usually arrange to be present at some time during the normal inquiry hours of a long inquiry. Both you and the parties need the evenings to prepare for the following day and evening sessions are particularly tiring and onerous. An evening session should therefore be an exceptional occurrence. If one is arranged there should only be one other morning or afternoon sitting on the same day.

17. An evening session needs to be carefully arranged and controlled. It is part of the inquiry and not a public meeting and all speakers must observe the normal rules of inquiries, addressing you rather than the public at large. You should make it clear, when the evening session is announced, that witnesses heard in the day sessions will not be available for cross-examination in the evening session. If possible the Programme Officer should collect a list of those wishing to speak in advance together with a brief outline of the points they wish to make; you should hear those listed first before asking if any others wish to speak. You should attempt to prevent repetition, but exercise discretion when the participants are inexperienced in such proceedings and wish to express genuine and deeply held views.

18. An example script for an evening session follows:

> *The evening session forms part of the public inquiry that will have opened earlier in the day. The session will commence at 18.30 hours at the Town Hall on 7 January 2020 and will sit no later than 21.00 hours.*
>
> *The purpose of the evening session is to allow those unable to attend the daytime sitting sessions the opportunity to put their views to the Inspector. It is important to note that the evening session is a formal part of the Inquiry and is not a public meeting. As such, all speakers will need to observe the normal rules of inquiries, addressing the Inspector rather than the public at large, putting their respective views to her. As is usual practice, the witnesses heard in the day sessions will not be available at the evening session for cross-examination, although representatives of both the main parties will be present to hear what is said.*
>
> *Anyone wishing to speak at the evening session should arrive in advance and provide their name and details to the LPA's officer who will be assisting with proceedings and who will collate a list of participants for the Inspector.*
>
> *The advice accessed via the links below should be read by anyone wishing to take part either in the daytime or evening sessions. In particular, it is most helpful if you write down in advance what you want to say, even if it is a series of headings, which will not only help you not to forget anything, but will also help the Inspector record accurately what you are saying. To that end, you will need to provide three copies of any note (one for the Inspector and one each for the LPA and the appellant) submitted in advance of the evening session if at all possible - Inquiries are not the place to spring surprises.*

Joint inquiries and non-planning cases

19. Some joint inquiries are difficult to programme; e.g. a joint inquiry into an application for planning permission and a compulsory purchase order relating to the same site, where the relevant procedural rules cannot be strictly followed. In such cases you must be ready to decide what the programme should be if the parties cannot reach an acceptable agreement. It may be helpful to discuss this conflict of procedure with your Inspector Manager beforehand.

20. When considering the programme of an inquiry other than a s78 case, it should be remembered that the party that is asking the Welsh Ministers to do something should normally go first and end last. Thus, if the subject of the inquiry is the confirmation of an order, the order making authority should go first.

21. If the Welsh Ministers are making a proposal such as a modification or revocation order, their representative should make their statement first. You should declare at the outset which Regulations is to be applied and ask the main parties to consent to it. The procedures customarily followed in inquiries under the Highways Acts should not, however, be used in other types of case.

Controlling the pace of a long inquiry

22. You (and your Assistant Inspector, Assessor and Planning Officer) must remain alert, receptive and temperate throughout the inquiry. This cannot be done if you fail to set a reasonable pace, as inquiries that go on for many weeks are tiring both physically and mentally. Unless you are blessed with an exceptional constitution, the self-discipline required more often entails limiting the hours worked rather than increasing them.

23. Sensible pacing starts before the inquiry opens and continues to the close - and indeed right through the reporting period. Heed the following advice:

- Ensure that you have adequate time for preparation; your programme immediately before that should not include cases of significant size and all outstanding work should be completed if at all possible.
- The inquiry programme should be based on two 3-hour sessions a day, Tuesday to Thursday, and a shorter sitting day on Friday. Sessions may be extended by half an hour or so in order to keep up with the programme and exceptionally, Monday afternoon may be used for this purpose. Monday evenings can be useful for evening sessions, if necessary. But if an evening session is held, only one other inquiry session should be held on that day.
- Breaks in mid-session not exceeding 10 minutes can be valuable but must not be abused. It is essential that all parties return within the time specified
- Be realistic when estimating how long the various stages of the inquiry will take. The programme should put the participants under some pressure - which may have to be absorbed on occasion by modestly extended sessions - but not too much. If gaps occur, it may be possible to bring forward an item or make a site visit, or use the time to read proofs.
- After 3 or 4 weeks, a more substantial adjournment may be appropriate if the inquiry is programmed to last much longer than that. At this stage it can be helpful to have a break to read in more detail the proofs of the evidence yet to be heard. (It is sometimes appropriate to programme a complicated technical topic to follow a break). The adjournment should be incorporated into the programme and regarded as a firm commitment. Sometimes it is convenient to adjourn for a brief period that contains a public holiday.
- Inspector Managers should consider asking a colleague to deal with day-to-day queries from members of their groups.

Annex Q: Assessors at hearings and inquiries

1. The 2017 Regulations allow the Welsh Ministers to appoint an assessor to advise the appointed Inspector (Regulation 28 for hearings and Reg 37 for inquiries).

2. An assessor is normally a scientific or technical advisor selected to assist you by hearing, testing and weighing evidence of a specialised nature that may be outside the normal experience of the Inspector but which may have an important bearing on the issues to be decided.

3. The assessor's name and qualifications will be notified to the parties together with the matters on which the Inspector is to be advised. Assessors are appointed by the Welsh Ministers and should hold a letter or minute to that effect in case their status is challenged.

4. Assessors must not have had any previous connection with the proposal or any professional association or connection with the parties. Where the number of experts in the relevant field is so small that this condition cannot be wholly met it will usually be desirable for some statement of the precise position to be made at the beginning of the event. It is also important that the assessor should not have taken a public stance on the policies at issue in the event. If assessors realise, after accepting the appointment, that they have had some previous connection with the case or the parties, or if any other situation arises in which they might find their position a source of embarrassment to themselves or PEDW, they should mention it immediately to you or PEDW management.

5. Once an appointment as an assessor has been offered there should be no private communication by them with the parties or with any interested person. If the assessor considers that further information should be obtained from any of the parties before the event, they should, after discussion with you, ask the case officer to obtain it.

Role of an assessor

6. The assessor's task is to evaluate the specialist evidence within their field that is presented at the event and so far as possible to indicate the weight which it should, in their opinion, be given in your conclusions.

7. It is the assessor’s responsibility to ensure that, as far as possible, all relevant facts within their specialised field are obtained. It is the Inspector’s duty to see that the assessor is afforded every opportunity to obtain those facts.

Before the event

8. Assessors are sent submitted documents after accepting the appointment and are notified of the Inspector’s name. You and the assessor should discuss the case at an early stage. For more complex cases a meeting is usually necessary. Where a PIM is held with the parties it is usually appropriate for the Assessor to attend, so there is the opportunity for you to meet immediately beforehand. It will also be necessary to meet immediately before the event.

9. Matters which might be discussed before the PIM or event include:

- The precise boundaries of the assessor's specialist interest in relation to the subject matter of the event - sometimes these are not obvious.
- The definition of issues and topics on which evidence will be needed; the adequacy of the specialist evidence coming forward; whether further information should be obtained from the parties; whether it appears that a witness does not intend to take into account a key document (e.g. a published technical report) known to the assessor; and whether there are any serious inconsistencies which the parties could be asked to clear up before the event. Such matters may form the basis for advice at a PIM.
- The programming of the event with particular reference to the specialist content and whether it is necessary for the assessor to attend all sessions.
- Whether there will be an advantage in an accompanied site visit being conducted before or during the event, so that features noted at the visit can be discussed in the event.
- Points of procedure on which the assessor requires clarification, including points arising from this advice.
- You will also wish to know how the Assessor sees the specialist issues standing at the beginning of the event and the particular aspects which need to be pursued.

10. The assessor must arrange adequate preparation time to study the evidence identify points of clarification and follow-up questioning. The evidence should be fresh in the mind before the event.

The conduct of the event

11. You are the person appointed to conduct the event. In the event of any dispute an assessor should leave decisions on procedure to be handled by you.

12. Even when specialist issues are being argued it is you who is being addressed by parties and who has the right to put questions to witnesses and those appearing on behalf of the parties. If the assessor puts any questions, there should be no suggestion of partiality either in the manner that they are put or in the phrasing. There must be no attempt to cross-examine, to lead, or to discredit a witness by embarking on a line of questioning more appropriate to an opposing advocate. Comments or expressions of opinions of any kind must be scrupulously avoided.

13. The assessor should not interrupt the proceedings at any stage. If an important point arises which needs to be cleared up immediately, a note should be passed to you. Assessors should not attempt to hold whispered conversations with you when being addressed by others; you have to be seen at all times to pay undivided attention to the representations. If it is essential to speak to you, the proceedings would have to be halted momentarily, or formally adjourned.

14. Sitting by your side, assessors must share a courteous, temperate judicial approach. Even when it is clear that they have no direct involvement in the

proceedings at a particular stage, they should not show that they are obviously thinking of other things, for instance by shuffling papers.

The site visit

15. You and the assessor may make an unaccompanied visit to the site before the event is held. If an accompanied visit is held during or after the event, the normal rules of site visits apply i.e. the assessor must not be left alone with one party. You and the assessor should stay close to one another during the visit, because if something is pointed out to one, the other should also be aware of it.

The Inspector's report or decision

16. The assessor will give such advice to you on the specialised issues arising at the event as may seem to be necessary, and will collaborate in the production of the report or decision. It is for you to ascertain the facts, and to reach your own conclusions. Where the specialist issues are complicated or difficult, the assessor may assist you by preparing draft findings on those issues and any conclusions to be drawn from them which you may adopt. It must be clearly understood, however, they become your findings and conclusions, and you must accept full responsibility for them. Any draft conclusions of the assessor's should, like yours, derive from what has been seen and heard at the event.

17. Assessors' conclusions will be arrived at in the light of their specialist knowledge and experience and a background of generally accepted data on such matters can be assumed. The assessor should not, however, take into account any new or controversial technical material which has not been canvassed at the event.

18. In many cases, all that will be necessary is for you to state at the end of his/her conclusions, "The assessor, [Name] ..... agrees with my conclusions in paragraphs ....." provided, of course, that is so. Alternatively, if it is felt that the assessor's contribution should be more clearly identified, it should be possible to frame the report in such a way that the specialist advice can be introduced in appropriate places by the phrase "I am advised by the assessor that ....".

19. However, in cases where there has been a great deal of argument and where the decision turns on specialist issues, it may be appropriate for the assessor to produce a written report to you. In a Welsh Ministerial case, this is appended to your own report and you state how far it is accepted. In a transferred case, it is not normally appended to the decision, but a reference to its existence is made and it is made available for inspection.

20. An assessor’s advice or conclusions should not go beyond what is necessary for the decision. Reports should only be necessary where the issues or detailed technical data and calculations are unusually intricate. If produced, the report must bear the assessor's signature and should carry the appropriate reference and be headed by the brief title, such as "Compulsory Purchase Order .....", and the suffix "Assessor's Report".

Annex R: Called in applications

Background and policy

1. Under s77 of the TCPA 1990 the Welsh Ministers may call in planning applications to be referred to them for a decision. Procedures for dealing with call-ins are set out under the 2017 Regulations. This annex assumes that an inquiry will be held; however, called in applications can also be determined via a hearing, written representations or a mix of any procedure.

2. The call-in procedure commences when a direction is issued requiring the planning application to be referred to the Welsh Ministers. The direction can only be given before the application is decided by the LPA; i.e. before the Decision Notice has been issued. The call-in letter identifies the reasons for the direction and the matters about which the Welsh Ministers particularly wish to be informed for the purposes of considering the application.

Initial preparation

3. Due to their scale, complexity and nature, call-in cases are particularly. Careful and thorough preparation is therefore needed. Approach the case with a fresh and unbiased mind.

4. Pre-Inquiry Meetings (PIMs) are especially useful in all call-in cases, except the smallest and most straightforward ones. This is because they are more likely to present you with the unexpected. As a rule of thumb, you should hold a PIM if there are three or more main parties, many issues are in question, or if significant quantities of technical evidence is likely.

5. WG's Planning Division will cull letters from third parties and replace them with a schedule of names and addresses of those who made representations before the call-in. This schedule may be incomplete. You may therefore need to deal with complaints from third parties who were not invited or notified of the PIM and inquiry. Often it will be enough to explain that the PIM is not concerned with merits and ensure the complainants receive a copy of the PIM note.

The Pre-Inquiry Meeting

6. The conduct of the PIM will be similar to others, although large-scale attendance by the public may be more likely to occur because of local controversy. Particular care and attention will need to be paid to the evidence the parties should produce and the procedure at the inquiry, especially as the only opposition to the proposal may be from third parties (including invited parties), whose advocate may not be legally qualified. The third parties themselves are also unlikely to be familiar with inquiry procedures.

7. A key source of evidence to be considered at the PIM is the list of matters about which the Welsh Ministers particularly wish to be informed. The list usually starts with a reference to conformity (or not) with the policies of the development plan. The parties should be asked to comment on the factors which might affect the

weight to be given to any key national policies or supplementary planning guidance. They should be asked to provide evidence, if necessary, on any conflicts between policies of Future Wales, national policy and the Local Development Plan. Note that circumstances may have changed between the call-in letter being issued and the start of the inquiry.

8. You should bear in mind you are expected to probe those aspects of the parties' cases which stand a risk of not being properly tested if there is little or no opposition, for example, where the LPA are in favour of the proposal. Accordingly, the reasons for the call-in should be studied closely. These can indicate areas of concern to the Welsh Ministers, especially relating to national policy, which may not be specifically identified in the call-in letter.

9. Keep in mind that the Welsh Ministers' list is effectively a preliminary list, prepared before the receipt of evidence. It is normal for other matters to emerge before the inquiry. It is prudent to try to identify these for reference at the PIM.

10. Documents on the file, such as committee reports and consultation responses from technical experts, should be checked for material points. Representations can be useful in identifying significant information not possessed by the LPA or the applicants, for example the presence on the site of protected species. Maps on the file should also be checked for key features such as landfills, potentially contaminated sites and archaeological remains.

11. At the PIM you may wish to explain that you intend to be more inquisitorial than normal – to test the evidence – and that that this does not indicate bias on your part. Inspector's reports that, for example, dismiss residents' concerns about traffic generation solely because "there was no expert evidence to demonstrate harm" are unlikely to reassure anyone that the issue has been properly assessed. You should establish the actual position, so far as practicable, and then express your own conclusion based on what is available. Be willing, if necessary, to ask the parties to provide additional information to assist you, ideally at a PIM.

12. Before the inquiry, prepare lists of questions for individual witnesses. In cases where the evidence of one side, or part of it, is unlikely to be tested properly by the other side, your questions assume greater importance. In those circumstances be particularly thorough and careful about your questions.

Procedure at inquiry

13. In a call-in case which has generated a lot of local opposition and media interest there is merit in asking the advocates for the main parties and any substantial third parties to give a short opening statement at the start of the inquiry. This will give those not closely involved in the proceedings a succinct overview of the main points of the cases for and against.

14. Although the normal procedure at inquiries is for the LPA to present its case first, this may not be suitable where the LPA are in favour of the development. In such cases the applicant will usually present the more substantial case with the LPA acting in a supporting role. The Regulations allow you to determine the order of

procedure, so in these circumstances hear the applicant's case first, others supporting the development being heard next, followed by those opposing it. However, have regard to the principles of natural justice and ensure the views of the parties are taken into account.

15. Closing submissions would be made in reverse order. Third parties and interested persons not making substantial cases could be heard on a date towards the end of the inquiry fixed by you after consultation with the parties.

16. If there has been no PIM, ensure you settle the order of procedure in your opening, taking account of the views of the parties.

17. Where a residents' group or similar is the main opposing party, they may lack experience of planning inquiries. Time spent explaining the procedure and programme will not be wasted, as residents' ideas may have been formed from participating in public meetings. Common expectations are that the LPA will go first, and that the residents' group will act as a panel, answering each point from the other side as it is made. The group might indeed have prepared their participation on this basis and might be caught off-guard by the structured inquiry approach. You should offer impartial help.

18. In a call-in inquiry you might be more inclined than in other cases to make a point of asking interested persons whether they have any questions for each of the applicant's witnesses, particularly if the opposition to large parts of the applicant's case comes only from individuals who are not organised in a group.

19. In these types of circumstance, the individuals concerned might apply for legal aid. However, neither you nor the Welsh Ministers can entertain applications for public funding. If faced with such a request, explain this and suggest means of mitigating any disparity of resources. You should offer to assist those unfamiliar with inquiry procedure as far as possible consistent with your role. For example, the individuals concerned might be able to co-operate with another party sharing part or all of the same case. Assistance may also be available from Planning Aid Wales or Citizens Advice, or other organisations offering public assistance. If a party decides to apply for public funding, it may be necessary to adjourn the inquiry to give time for the application to be processed, although in a long inquiry it may be possible to rearrange the programme to avoid an adjournment. See 'Human Rights and the Public Sector Equality Duty' for further advice.

20. As call-in decisions are made by the Welsh Ministers, be careful not to be too rigid in identifying the main issues. It may be more appropriate to use a phrase like "main considerations upon which it seems likely, at this stage, that the Welsh Ministers will base their decision".

Reporting

21. In structuring your conclusions, you may find it is best to follow the order of the matters about which the Welsh Ministers particularly wish to be informed, finishing with any other matters raised by the parties or by you. Where this order is not followed, you should ensure that you conclude upon every one of the matters identified by the Ministers.

Annex S: Reopened hearings and inquiries

1. Under Regulations 47 and 48, hearings and inquiries may be re-opened in the following circumstances:

    - At the discretion of the Inspector or Welsh Ministers
    - If the Inspector or Welsh Ministers are asked by the appellant or the local planning authority, following notification that the decision-maker proposes to afford consideration to any material new evidence or matter of fact which was not raised at the hearing or inquiry
    - When a decision has been quashed by the High Court (re-determination).

2. The earlier section on ‘Late evidence or unforeseen issues’ after an event provides more advice. When new evidence is to be considered, someone representing the source of that new evidence will attend the re-opened event to give the relevant evidence and submit to cross-examination directed to this evidence but not to any other points.

3. When a new issue of fact has caused the event to be re-opened, the parties concerned will have been told what it is and they will be entitled to bring any evidence that reasonably bears on it. It may or may not be necessary in this type of case for anyone to attend and give evidence, although you can explain how you would like to proceed. If anyone does appear, this will be on the terms set out in the preceding paragraph.

4. Rarely will an event be re-opened before a decision has been issued. If this occurs PEDW or WG will write to the parties to explain why the event is being re-opened. The full examination of the evidence already given that relates to the issue that led to re-opening will need to be permitted, and it may well be that further evidence of the issue will have to be considered. It should not, however, be necessary to hear all over again the evidence already given on the issue. In many cases the event may take the form of argument rather than evidence.

5. Normally, a re-opened event is taken by the original Inspector. If not, new Inspectors should say that they have studied the submission documents and read the original Inspector's report (if published). This should shorten the proceedings.

6. When re-opening an event, you should emphasise that the proceedings are strictly limited to the consideration of the specific topic or matter that requires further examination.

7. After the opening announcement you should take the appearances in the usual way. Before any representations are heard, you should explain the procedure to be adopted and if there are any objections you should hear them and, if possible, resolve them by agreement. It may be relevant to invite the parties to consider what conditions, if any, might be imposed.

8. Regulations 47(10) and 48(12) state that where a hearing or inquiry is re-opened, a list of matters on which further evidence is invited must be provided to all event participants and interested persons. The case officer will normally have written to

the parties to require further written statements, but if not, you can set out a timetable for the receipt of this before the resumption. It will not usually be necessary for the parties to read evidence out in full.

9. At inquiry, those responsible for producing the new evidence or calling attention to the new issue should be asked to present their case first. This will normally be via a statement which, usually, will have been circulated to the main parties beforehand. The parties should then be heard in turn, followed by interested persons, with the applicant or appellant being allowed the right of final reply. The inquiry should then be closed. An accompanied inspection of the site should be made if necessary.

Voluntary re-opening

10. Powers are also available to you to enable a hearing or inquiry to be re-opened voluntarily. This power should only be used exceptionally (e.g. when the issue is likely to be of particular concern to interested persons) as normally an issue can usually be dealt with via written representations. If you consider that a transferred inquiry should be re-opened, you should consult your Inspector Manager. The Welsh Ministers may decide that a non-transferred inquiry should be re-opened in order that some factor, which was not discussed at the inquiry, can be taken into account.

Redeterminations

11. A hearing or inquiry may be re-opened for redetermination when a decision has been quashed by the courts. The quashed decision is treated as if it had not been made and is incapable of having had any legal effect.

12. If not being determined via written representations, the procedure at the re-opened event follows the normal sequence. In your opening, you must make clear that you are re-opening an event held earlier and that the case has to be re-determined as the previous decision was quashed by the court.

13. Because you must deal with the case 'de novo', all the original issues should be considered, as well as taking account of any new evidence or material changes since the earlier event. However, there may be scope for saving time in relation to matters unaffected by the court's decision and rehearsed extensively previously. Where this is the case, you should carefully canvass this possibility with the parties and seek agreement. Ask them whether there are any parts of the original evidence which do not need to be reheard and obtain their agreement in advance. Make clear any areas where it has been agreed that it is unnecessary for further evidence to be given.

Annex T: Booking accommodation – Health and Safety

1. The advice in the Site Visits chapter contains advice regarding health and safety and the buddy system which should be read in conjunction with this advice. You should always book accommodation within budget where possible but, when choosing where to stay, you should also consider your safety and well-being. This annex sets out matters you should think about when booking accommodation.

Health, safety and well-being
Matters to consider

- Avoid driving a long distance to/from a venue to prevent the stress of worrying about arriving on time and driving after a long day at a Hearing or Inquiry.
- Does the hotel reception have 24 hour cover?
- Does the hotel have its own parking? It's best to avoid having to carry luggage, laptops, documents etc a long distance or walking through an unfamiliar town especially at night.
- Does the accommodation have a restaurant? After a long day at Hearing or Inquiry do you want to be going out trying to find somewhere to eat? Also, you don't want to be having to find somewhere for breakfast before driving to the venue.
- Does the hotel provide room service? Do you feel comfortable/safe eating alone in a strange place? See below for advice on what to do if you find the parties are in the same hotel.
- Do the rooms include a desk? For multi day events its likely you will need to work in the evenings and you should have the facilities necessary to work comfortably.

2. It's not likely you will find yourself in the same accommodation as one of the parties but it may occur in places with a limited number of hotels. If you do, there's no need to find alternative accommodation for the first night. Avoid them as far as possible, announce the fact in opening and you avoided contact.

3. For multi day events you should seek alternative accommodation if possible. If none is available or convenient (see the advice above re distance) plan how you will minimise contact. For example, use room service, eat in different places or times. Always do this publicly to demonstrate you are ensuring you are avoiding contact as far as possible to maintain your impartiality.