

CODE OF PRACTICE: PROCEDURES FOR HANDLING ENVIRONMENTAL APPEALS THROUGH HEARINGS OR LOCAL INQUIRIES



**CODE OF PRACTICE:
PROCEDURES FOR HANDLING
ENVIRONMENTAL APPEALS
THROUGH HEARINGS OR LOCAL
INQUIRIES**

Scope of this code

1. This code of practice applies where either a hearing or a local inquiry is to be held by a person appointed by the Scottish Ministers to consider and make a decision on an appeal or other matter to which section 114 of the Environment Act 1995 applies-

- the Pollution Prevention and Control (Scotland) Regulations 2012 (the PPC Regulations)
- the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR)
- section 4 of the Control of Pollution (Amendment) Act 1989 (registration of carriers of controlled waste)
- the Waste Management (Scotland) Regulations 2011 (registration as a broker of or dealer in controlled waste)
- the Environmental Protection Act 1990 (waste management licences)
- section 26 of the Radioactive Substances Act 1993.

2. The person appointed by Scottish Ministers to decide the appeal will be a reporter from the Scottish Government's Planning and Environmental Appeals Division (DPEA).

3. Schedule 20 to the 1995 Act applies to hearings or inquiries held by a person appointed by Scottish Ministers. In all other respects the statutory procedures governing environmental appeals will continue to apply. For example, the time limits specified in the PPC regulations and CAR for lodging appeals, for the Scottish Environment Protection Agency (SEPA) to reply to these, and for submitting written representations, continue to apply.

4. This code of practice does not apply to hearings or inquiries held in appeals where the final decision is to be made by the Scottish Ministers themselves, rather than by a person appointed under section 114 of the Environment Act. There are separate rules for

these non-delegated cases: for example, in the CAR (see Schedule 9, paragraphs 10-19) and in the PPC Regulations (Schedule 8, paragraph 4).

The code applies to other types of appeal, such as appeals under The Waste Electrical and Electronic Equipment Regulations 2013.

Introduction

5. Schedule 20 does not set out any detailed procedural rules for the conduct of hearings or inquiries. Accordingly, this code of practice sets out the arrangements which the DPEA proposes to apply, to ensure all parties are clear about what will happen and what is expected of them in hearings or inquiries conducted under the 1995 Act. The code of practice is designed to ensure the appeal process is fair, robust and efficient.

6. In the past, the practice adopted in environmental appeals in which a hearing or inquiry took place was to apply, by analogy, the Town and Country Planning (Inquiries Procedure) (Scotland) Rules 1997. Those rules no longer apply to planning appeals and the procedures set out in this code are modelled on the more modern and efficient handling arrangements in the Town and Country Planning (Appeals) (Scotland) Regulations 2013.

Initial exchange of written representations

7. The usual provisions for submitting and responding to environmental appeals set out in the legislation listed in paragraph 1 above, or regulations made under that legislation, will continue to apply. Annex C contains a summary of those provisions. Where the relevant primary or secondary legislation makes no express provision for exchange of written representations we have set out in the Annex how we propose to handle those appeals. One of the main objectives of the recent reform of the planning appeals system was to front-load the appeal process with

parties submitting full details of their case and supporting evidence at the outset of the appeal. In the interests of efficiency the Scottish Ministers expect environmental appeals to be conducted in the same way. Parties should submit full details of their case, including any supporting documents, within the timescales set for those statutory exchanges of information. All matters will normally be dealt with under that exchange, with no need for further submissions.

8. After the initial exchange of written representations, the appeal will be allocated to a reporter to determine what, if any, further procedure is required.

9. If neither the appellant nor SEPA has requested a hearing and if the reporter is satisfied that there is sufficient information to determine the appeal, the reporter will proceed to determine the appeal without reference to this code of practice.

10. If the reporter considers that further written representations are needed, these will be requested.

11. Where either the appellant or SEPA has requested a hearing or where the reporter considers that a hearing session or an inquiry session would be desirable, this code of practice sets out the procedures that will be followed.

12. The reporter will ensure that the appeal is determined as efficiently and expeditiously as possible. Requests for consideration of the appeal to be suspended or delayed ('sisted') will only be granted where the reporter is satisfied that this would be in the public interest.

Need for, and choice of, further procedure

13. On taking up appointment the reporter will consider the submissions made by the appellant and SEPA and any representations made by third parties where these are provided for in the relevant legislation.

The reporter will then identify the main issues in the case and decide whether s/he requires any additional information or evidence on these. So, for example, the reporter may consider that there is sufficient information in the documents that have been submitted to enable him/her to reach a conclusion on a particular issue or issues and that no further procedure is required in relation to those issues. Where further information or evidence is required the reporter will make a preliminary assessment of how that further information should be obtained: by written submissions, a hearing session, an inquiry session or a combination of these.

Pre-examination meeting

14. The reporter may arrange a meeting to discuss and consider the manner in which the appeal, or any parts of it, will be handled (a 'pre-examination meeting'). On some occasions, where circumstances require, more than one meeting may be necessary. Where a meeting is required DPEA will set the date, time and venue for the meeting and will give the appellant, SEPA and any other parties notice of the arrangements.

15. The reporter will set the agenda for the pre-examination meeting. Amongst other things, the agenda will identify the reporter's provisional views on (a) the issues requiring no further procedure; and (b) the issues requiring further information or evidence and the reporter's proposed procedures. The reporter will consider the representations that the parties make on the selection of issues and of the proposed procedures and seek a consensus on the most effective way of handling the appeal, in particular, which issues require to be dealt with at a hearing or inquiry session. The reporter will provide written confirmation of which matters are to be dealt with by written submissions and which are to be covered at a hearing or inquiry session.

16. In more complex cases in which a hearing or inquiry session has been fixed the reporter may hold a pre-examination meeting to discuss the procedure to

be followed at the hearing or inquiry session, the order in which parties will be heard, the timetable for parties to present their cases and any other issues relating to the efficient conduct of proceedings.

Cases where no pre-examination meeting is required

17. Where no pre-examination meeting is required, the reporter will write to parties setting out his or her provisional views on (a) the issues requiring no further procedure; and (b) the issues requiring further information or evidence and the reporter's proposed procedures for dealing with them. The reporter will invite comments and will consider the representations that parties make on the selection of issues and of the proposed procedures and seek a consensus on the most effective way of handling the appeal, in particular, which issues require to be dealt with at a hearing or inquiry session. The reporter will provide written confirmation of which matters are to be dealt with by written submissions and which are to be covered at a hearing or inquiry session.

Hearing sessions and/or inquiry sessions

18. The procedures to be followed in any hearing session or inquiry session are set out in Annexes A and B below.

19. As a general guide to the differences between the two processes, a hearing takes the form of a structured discussion led by the reporter, while an inquiry is normally a more formal event where witnesses give their evidence to the reporter and can be cross-examined by the other parties, and parties have the opportunity to make closing statements.

20. Hearings or inquiries will be held in public unless there are exceptional reasons for them to be held wholly or partly in private, for example, because the appeal involves evidence that is commercially confidential.

Site inspection

21. At any time during the appeal, the reporter may choose to carry out an inspection of the site or any other area relevant to the application. S/he may do this unaccompanied or parties may be invited to attend. Anyone invited to attend the site inspection will be given notice of the arrangements.

22. The purpose of the site inspection is to give the reporter an opportunity to familiarise him/herself with the location and how it relates to the issues raised by the appeal. Those attending will not be allowed to discuss the merits of the case with the reporter, although they may point out particular physical features or be asked to respond to factual questions about the site. In some cases where the site inspection relates to the subject of a hearing session, the reporter may allow discussion from the hearing session to continue on site (see Annex A, paragraph 6).

Appointment of an assessor

23. The Scottish Ministers may appoint someone as an assessor, to sit with the reporter at the hearing or inquiry session and to advise the reporter on specific matters. Where this happens, DPEA will advise hearing/inquiry participants of the identity of the assessor and the specific matters on which s/he has been appointed to advise.

Expenses

24. The Local Government (Scotland) Act 1973 (section 210) enables Scottish Ministers to make awards to any party in relation to expenses they have incurred through the appeal proceedings, to be paid by another party. This code of practice sets out the criteria that DPEA will apply in exercising that power. Parties to environmental appeals will normally be expected to pay their own expenses. An appellant will not be awarded expenses simply because the appeal

is successful, nor will SEPA be awarded expenses simply on the grounds that the appeal is dismissed. Awards of expenses will only be made in exceptional cases where a party to the appeal has, in the opinion of the reporter, acted unreasonably and, as a result, has caused unnecessary expense for the party making the claim.

25. In cases where a hearing session or inquiry session is held, an application for an award of expenses should be made before the end of the hearing session or inquiry session.

26. An award of expenses can be made only in relation to the costs of the appeal to DPEA. It cannot take the form of a compensation payment for matters such as loss of business during the proceedings, reputational damage or any other impacts not directly linked to the proceedings themselves.

27. An award of expenses will not necessarily mean that a claimant will receive the full cost of the proceedings. Any award made will relate to the amount of the expenses that have been incurred as a result of the unreasonable behaviour. While this might sometimes mean the full cost of the appeal is awarded, in most cases it will lead to a partial award. Where a partial award is made, the extent of the award will be clearly explained.

DPEA publication policy and data protection

28. In cases to which this code applies (with the exception of appeals relating to confidentiality of information) DPEA will publish on its website all the documentation relating to the appeal. In order to comply with data protection principles DPEA will remove all personal telephone numbers, email addresses and signatures before publishing documents to the website. If you do not want a document that you have submitted to be published on the website please explain the reason for this when you submit the document. Please note that anonymous or confidential

representations are unlikely to be given the same weight as other representations.

29. DPEA's aim is to ensure that anything that is abusive, indecent, unlawful or defamatory is not displayed. However, individuals must take personal responsibility for the comments that they make and submit.

Further information and contacts

30. DPEA will ensure all parties involved in the appeal are kept informed of what will happen and what action is expected of them. There will always be a named official included in any communication from DPEA, who will be the first point of contact on the case.

31. Any questions about this code can be directed to DPEA at:

Scottish Government
Planning and Environmental Appeals Division
4 The Courtyard
Callendar Business Park
Falkirk
FK1 1XR

E-mail: dpea@gov.scot

Tel: 01324 696400

Fax: 01324 696444

ANNEX A

HEARING SESSIONS

Notice of hearing session and specified matters

1. (1) The reporter will give written notice (a “procedure notice”) of the scope of the hearing session to the appellant, SEPA and any body or person who has been notified of the appeal under the relevant legislation, or who has made representations in the appeal (the parties).

(2) The procedure notice will set out the matters to be considered at the hearing session. Only those specified matters will be considered at the hearing session.

(3) The reporter may also send a procedure notice to any other person or body that, in the opinion of the reporter, may be able to provide information on the matters specified in the notice.

(4) Anybody given the procedure notice and who intends to appear at the hearing session must, within 14 days of the date of the notice, inform the reporter in writing of that intention.

Appearances at hearing session

2. (1) Those entitled to appear at the hearing session are:

- (a) the appellant;
- (b) SEPA; and
- (c) anybody else who, in response to the procedure notice, has informed the reporter of their intention to appear at the hearing session in accordance with paragraph 1(4) above.

Date and notification of hearing session

3. (1) The date, time and place of the hearing session will be set (and may subsequently be varied) by the reporter. Unless the appellant and SEPA agree to a shorter period of notice, the reporter will give at least 28 days' notice of those arrangements, or any subsequent variation of them, to all those entitled to appear at the hearing session.

Service of hearing statements and documents

4. (1) The reporter may, by notice, require those entitled to appear at the hearing session to send him/her, by the date specified in the notice,

- (a) a hearing statement; and
- (b) where the participant intends to refer to or rely on any documents when presenting their case, a copy of every document (or the relevant part of a document) on the list comprised in that hearing statement.

(2) The appellants and SEPA must send each other copies of their hearing statement and supporting documents. Other participants who have been asked to submit a hearing statement and any supporting documents must copy these to the appellant and to SEPA at the same time as these are sent to the reporter.

(3) The reporter may direct the appellant and/or SEPA to send a copy of their hearing statement and supporting documents to other participants. The reporter may direct other participants who have been asked to submit a hearing statement and any supporting documents to copy these to participants other than the appellant and SEPA.

(4) In this paragraph, "hearing statement" is a written statement which outlines the case relating to the specified matters which a person proposes to put forward to a hearing session and—:

- (a) a list of documents (if any) which the hearing participant intends to refer to or rely on; and

(b) a list of any other people who will attend and speak on that participant's behalf at the hearing session, noting any matters which those people are particularly to address and any relevant qualifications they hold in relation to those matters.

(5) If required by notice in writing from the reporter, anybody who has served a hearing statement in accordance with this paragraph must—

(a) provide such further information about the matters contained in the statement as the reporter may specify; and

(b) at the same time send a copy of that further information to anybody else on whom the hearing statement has been served.

Procedure at hearing

5. (1) Except as otherwise provided in this Annex, the reporter will decide the procedure to be followed at a hearing session.

(2) The reporter will, having considered any submission by hearing participants, state at the beginning of the hearing session the procedure s/he proposes to adopt.

(3) A hearing session will take the form of a discussion led by the reporter. Cross-examination of participants will not be permitted.

(4) Anybody entitled to appear at the hearing session may do so on their own behalf or be represented by another person.

(5) Where two or more persons or bodies have a similar interest in the issues being considered at the hearing session, the reporter may allow or encourage one or more of them to appear on behalf of some or all.

(6) The reporter may proceed with a hearing session in the absence of any person entitled to appear at the hearing session.

(7) The reporter may from time to time adjourn the hearing session and, if the date, time and place of the adjourned hearing session are announced before the adjournment, no further formal notice is required. Otherwise participants will be advised of the new arrangements in line with paragraph 3 above.

Site inspection

6. (1) Before the end of the hearing session, the reporter will decide whether there is to be an inspection of the site, specific to the matters which are the subject of the hearing session, accompanied by the parties involved in the hearing session. This may be in addition to an earlier inspection of the site made by the reporter. If appropriate, the reporter may allow further limited discussion of relevant matters on site before formally closing the hearing session.

ANNEX B

INQUIRY SESSIONS

Notice of inquiry session and specified matters

1. (1) The reporter will give written notice (a “procedure notice”) of the scope of the inquiry session to the appellant, SEPA and any body or person who has been notified of the appeal under the relevant legislation, or who has made representations in the appeal (the parties).

(2) The procedure notice will set out the matters to be considered at the inquiry session. Only those specified matters will be considered at the inquiry session.

(3) The reporter may also send a procedure notice to any other person or body that, in the opinion of the reporter, may be able to provide information on the matters specified in the notice.

(4) Anybody given the procedure notice and who intends to appear at the inquiry session must, within 14 days of the date of the notice, inform the reporter in writing of that intention.

Appearances at inquiry session

2. (1) Those entitled to appear at the inquiry session are—

- (a) the appellant;
- (b) SEPA; and
- (c) anybody else who, in response to the procedure notice, has informed the reporter of their intention to appear at the hearing session in accordance with paragraph 1(4) above.

Date and notification of inquiry

3. (1) The date, time and place for the inquiry session will be set (and may subsequently be varied) by the reporter. Unless the appellant and SEPA agree to a

shorter period of notice, the reporter will give at least 28 days' notice of those arrangements, or any subsequent variation of them, to all those entitled to appear at the inquiry session.

Service of inquiry statements, documents and precognitions

4. (1) The reporter may, by notice, require those entitled to appear at the inquiry session to send him/her, by the date specified in the notice,

- (a) an inquiry statement;
- (b) a copy of every document (or the relevant part of a document) on the list of documents comprised in that inquiry statement; and
- (c) a precognition in respect of any evidence to be given to the inquiry session by a person included on the list of witnesses comprised in that inquiry statement.

(2) The appellant and SEPA must send each other copies of their inquiry statement, supporting documents and precognitions. Other participants who have been asked to submit an inquiry statement and any supporting documents and precognitions must copy these to the appellant and to SEPA at the same time as these are sent to the reporter.

(3) The reporter may direct the appellant and/or SEPA to send a copy of their inquiry statement, supporting documents and precognitions to other participants. The reporter may direct other participants who have been asked to submit an inquiry statement and any supporting documents and precognitions to copy these to participants other than the appellant and SEPA.

(4) In this paragraph –

“inquiry statement” is a written statement which contains particulars of the case relating to the specified matters which a person proposes to put forward to an inquiry session, and includes:

- (a) a list of documents (if any) which the inquiry participant intends to refer to, rely on or put in evidence; and

- (b) a list of witnesses, specifying the persons who will give (or be called to give) evidence at the inquiry session, noting the matters on which those people are to give evidence and any relevant qualifications they hold in relation to those matters.

“precognition” means a written statement of the evidence which a witness will give to the inquiry session. Unless the reporter otherwise agrees, it must not contain more than 2000 words.

Procedure at inquiry session

5. (1) Except as otherwise provided in this Annex, the reporter will decide the procedure to be followed at the inquiry session.

(2) The reporter will, having considered any submission by inquiry participants, state at the beginning of the inquiry session the procedure which the reporter proposes to adopt. In particular, the reporter will state:

- (a) the order in which the specified matters are to be considered at the inquiry session; and
- (b) the order in which the inquiry participants will be heard in relation to a specified matter (a different order may be chosen for different specified matters).

(3) Anybody entitled to appear at the inquiry session may do so on their own behalf or be represented by another person.

(4) Where two or more persons or bodies have a similar interest in the matter under inquiry, the reporter may allow or encourage one or more of them to appear for the benefit of some or all.

(5) Subject to sub-paragraph (6), any inquiry participant is entitled to call evidence and to cross-examine others giving evidence and to make a closing statement.

(6) The reporter may refuse to permit:

- (a) the giving or production of evidence;

- (b) the cross-examination of persons giving evidence; or
- (c) the presentation of any other matter, which the reporter considers to be irrelevant or repetitious.

(7) If any person entitled to appear at the inquiry session fails to do so, the reporter may proceed with the inquiry session at his/her discretion.

(8) The reporter may from time to time adjourn the inquiry session and, if the date, time and place of the adjourned inquiry session are announced before the adjournment, no further notice is required. Otherwise, participants will be advised of the new arrangements in line with paragraph 3 above.

Site inspection

6. (1) Before the end of the inquiry session, the reporter will decide whether there is to be an inspection of the site, specific to the matters which are the subject of the inquiry session, accompanied by the parties involved in the inquiry session. This may be in addition to an earlier inspection of the site made by the reporter.

ANNEX C

TIMETABLE FOR EXCHANGE OF WRITTEN REPRESENTATIONS

Appeals under the PPC regulations

There is a right of appeal to Scottish Ministers where SEPA refuses an application for a permit or grants it subject to conditions; refuses an application to vary conditions attached to a permit; refuses an application to transfer a permit or grants it subject to conditions; refuses permission to close a landfill site; requires further work to be done before a landfill site is closed; serves an enforcement notice, a variation notice, a suspension notice, a closure notice or a revocation notice; or refuses a request to treat information as commercially confidential.

Under paragraph 5 of Schedule 8 to the PPC regulations SEPA must submit written representations to Scottish Ministers within 28 days of receiving notification of an appeal. The appellant may make further representations within 17 days of receiving SEPA's representations.

Where notified parties submit representations on the appeal DPEA will send copies of them to the appellant and SEPA and give them not less than 14 days to respond.

The reporter will only permit further exchanges of representations when further information is required to enable the appeal to be determined.

Appeals under the CAR

There is a right of appeal to Scottish Ministers where SEPA refuses an application for authorisation or grants it subject to conditions; varies an authorisation or refuses an application to vary an authorisation; refuses an application to transfer an authorisation or grants it

subject to conditions; refuses an application to surrender an authorisation or grants it subject to conditions; suspends or revokes an authorisation; serves an enforcement notice; or refuses to treat information as commercially confidential.

Under paragraphs 20 to 25 of Schedule 9 to the CAR SEPA must submit written representations to Scottish Ministers within 28 days of receiving notification of an appeal. The appellant may make further representations within 28 days of receiving SEPA's representations.

Where notified parties submit representations on the appeal DPEA will send copies of them to the appellant and SEPA and give them not less than 14 days to respond.

The reporter will only permit further exchanges of representations when further information is required to enable the appeal to be determined.

Appeals under section 4 of the Control of Pollution (Amendment) Act 1989 (registration of carriers of controlled waste)

A person may appeal to Scottish Ministers under section 4 of Control of Pollution (Amendment) Act 1989 where an application for registration as a carrier of controlled waste has been refused or where SEPA has not made a decision on the application within a period of 2 months (or such longer period as may be agreed between the applicant and SEPA). An appeal may also be made under section 4 where a person's registration as a carrier of controlled waste has been revoked by SEPA.

Appeals are governed by the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991. However, these do not set out any time limits for submission of written representations. The procedures which DPEA proposes to adopt are set out in the following paragraphs.

On receipt of an appeal under section 4 DPEA will inform SEPA of the appeal and ask for representations on the appeal to be submitted within 28 days. The appellant may make further representations within 17 days of receiving SEPA's representations.

The reporter will only permit further exchanges of representations when further information is required to enable the appeal to be determined.

Appeals under the Waste Management Licensing (Scotland) Regulations 2011 (registration of brokers of and dealers in controlled waste)

A person may appeal to Scottish Ministers under schedule 5 to the 2011 regulations where an application to be registered as a broker of or dealer in controlled waste has been refused or where SEPA has not made a decision on the application within a period of 2 months (or such longer period as may be agreed between the applicant and SEPA). An appeal may also be made where a person's registration as a broker of or dealer in controlled waste has been revoked by SEPA.

Appeals are governed by paragraph 6 of schedule 5 to the 2011. However, these do not set out any time limits for submission of written representations. The procedures which DPEA proposes to adopt are set out in the following paragraphs.

On receipt of an appeal under the 2011 regulations DPEA will inform SEPA of the appeal and ask for representations on the appeal to be submitted within 28 days. The appellant may make further representations within 17 days of receiving SEPA's representations.

The reporter will only permit further exchanges of representations when further information is required to enable the appeal to be determined.

Appeals under the Environmental Protection Act 1990 (waste management licences)

A waste management licence is required for various types of activities concerning the treatment, keeping and disposal of controlled waste. There is a right of appeal to Scottish Ministers where SEPA refuses an application for a licence or an application to modify conditions of a licence; grants a licence subject to conditions or modifies the conditions attached to a licence; suspends or revokes a licence; rejects an application to surrender or transfer a licence; or decides that information is not commercially confidential and should be placed on the public register.

These appeals are governed by the Waste Management (Scotland) Regulations 2011. However, these do not set out any time limits for submission of written representations. The procedures which DPEA proposes to adopt are set out in the following paragraphs.

On receipt of an appeal under the 2011 regulations DPEA will inform SEPA of the appeal and ask for representations on the appeal to be submitted within 28 days. The appellant may make further representations within 17 days of receiving SEPA's representations.

The reporter will only permit further exchanges of representations when further information is required to enable the appeal to be determined.

Appeals under section 26 of the Radioactive Substances Act 1993

A person may not keep or use radioactive material of any description without being registered to do so. No one may dispose of radioactive waste without authorisation. Applications for registration as a user of radioactive material or for an authorisation to dispose of radioactive waste are made to SEPA.

Where SEPA refuses an application for registration as a user of radioactive material or an authorisation to dispose of radioactive waste; refuses an application for transfer of an authorisation; attaches conditions or limitations to a registration or authorisation; varies a registration or authorisation; or cancels a registration or revokes an authorisation, the person directly concerned by the decision may appeal to Scottish Ministers.

There are no procedural regulations setting out the detailed procedures to be followed in appeals under section 26. The procedures which DPEA proposes to adopt are set out in the following paragraphs.

On receipt of an appeal under section 26 DPEA will inform SEPA of the appeal and ask for representations on the appeal to be submitted within 28 days. The appellant may make further representations within 17 days of receiving SEPA's representations.

The reporter will only permit further exchanges of representations when further information is required to enable the appeal to be determined.

Appeals under The Waste Electrical and Electronic Equipment Regulations 2013

The Waste Electrical and Electronic Equipment Regulations (WEE) place obligations on producers of electrical and electronic equipment to finance the cost of collection, treatment, recovery and environmentally sound disposal of waste equipment from private households. Subject to certain exceptions producers must register with a producer compliance scheme.

The operator of a scheme or proposed scheme may appeal to the Scottish Ministers against a decision made by SEPA to refuse to grant approval allowing a distributor to rely on an existing take back facilities; to refuse to grant approval of a proposed scheme; or to withdraw approval of an operator's scheme. An operator of an authorised treatment facility or an exporter may appeal against a decision by SEPA to

refuse an application for approval; to refuse an extension of a grant of approval; or to suspend or cancel a grant of approval.

The procedure to be followed in an appeal is governed by schedule 14 to the WEE regulations. However, these do not set out any time limits for the submission of written representations. The procedures which DPEA proposes to adopt are set out in the following paragraphs.

On receipt of an appeal under the 2013 regulations DPEA will inform SEPA of the appeal and ask for representations to on the appeal to be submitted within 28 days. The appellant may make further representations within 17 days of receiving SEPA's representations.

The reporter will only permit further exchanges of representations when further information is required to enable the appeal to be determined.