



## DPEA CORONAVIRUS (COVID-19) GUIDANCE

Updated 6 August 2021

This is the 13th DPEA guidance note setting out how we intend to continue progressing our work during pandemic restrictions.

This note also looks forward to DPEA operations once all restrictions are lifted.

This update is based on wider Scottish Government guidance contained within [Coronavirus \(COVID-19\) update: First Minister's statement – 3 August 2021](#), [Coronavirus \(COVID-19\): review of physical distancing in Scotland - June 2021](#) and the [Chief Planner's letter](#) of 22 March.

### 1. Overall position

The vast majority of DPEA work is carried out through written representations. During Covid-19 restrictions, DPEA and appointed Reporters aim to keep casework and all other DPEA work progressing. In this regard DPEA thanks those involved in the cases we handle for showing flexibility and innovation in devising new ways of working to allow cases to progress.

The First Minister's Statement of 3 August sets out the following matters relevant to DPEA operations:

- even though the law will not stipulate physical distancing from 9 August, Scottish Government (SG) will continue to advise the public that - especially indoors - keeping a safe distance from people in other households and avoiding crowded places will minimise risk;
- SG will continue to advise home working where possible for now;
- SG will encourage employers to consider for the longer term, as the Scottish Government is doing, a hybrid model of home and office working - which may, of course, have benefits beyond the need to control a virus;
- rigorous hygiene, including regular hand washing, will continue to be essential;
- good ventilation will also be important;
- it will continue to be the law, subject to existing exemptions, that face coverings must be worn in all the same indoor settings as is the case now;
- Test & Protect will continue to contact-trace positive cases; and
- to assist with this, there will be an ongoing requirement for indoor hospitality and similar venues to collect the contact details of customers.

In addition, Scottish Government staff have been advised that remote working will remain the default position, but that a gradual return to the office may commence from 30 August, subject to 1 metre physical distancing.

Taking all of these considerations into account, DPEA now intends to **return gradually to in-person hearings and inquiries where those are considered to be necessary and appropriate. This gradual return will be consistent with the considerations set out in the bullet points above, and subject to 1 metre physical distancing.** Such in-person events will entail appropriate risk assessment.

The majority of DPEA staff will continue to work from home and keep travel to a minimum. Our office in Falkirk remains open with only a skeleton staffing complement in place to accept deliveries and carry out functions that cannot be done at home. Staff presence in the office will gradually increase from 30 August. Email communication with the Case Support Team remains in place. Please continue to use the usual phone numbers when contacting us.

## 2. Experience to date

Site inspections have been carried out virtually; reporters have used site photographs, video evidence and google earth to assess the merits of developments; and drone footage has also been used. Pre-examination meetings, hearings and inquiries have been held via audio and video conference. Many of the lessons we have learned during this time have demonstrated positive benefits and we intend to weave these innovations into our ways of working beyond the pandemic.

It has been demonstrated that cross-examination can be conducted virtually, but shorter sitting days with more short breaks is desirable. We have also had positive feedback from unrepresented parties, who have found virtual participation to be more convenient and less daunting than appearing in-person.

## 3. Illness of Reporters and participants

If the appointed Reporter (as a sole appointee) thinks that they might have COVID-19 or if they have been in close contact with someone with COVID-19 (again subject to self-isolation), a decision may be made to sist proceedings for a short period. Where more than one Reporter is appointed in a particular case, a decision on a similar sist will depend on the circumstances, such as the ability of other Reporter(s) to keep the case going procedurally or whether any planned oral procedure is imminent.

Where any party or any key employee of any party (or their agent or representative) is subject to similar restrictions, we would be grateful if DPEA could be alerted, especially if an impact is anticipated on their ability to participate or pursue their interest in the proceedings effectively. This is of course subject to, and respectful of, medical confidentiality of any affected person.

#### 4. Site visits

During the current phase of restrictions Reporters are now authorised to travel for accompanied and unaccompanied site inspections where it is safe to do so. Overnight stops are also now permitted subject to localised restrictions.

All parties to an appeal are entitled, by virtue of the relevant Regulations, to attend any such accompanied site visits. We would request, however, that attendance is kept to a minimum to reduce the risk associated with gathering.

Site visits – even unaccompanied – will not take place where they would involve or necessitate access to the inside of buildings which are, at the time of the visit, subject to specific restrictions. **This will generally mean that internal site inspections of occupied dwellings can take place**, subject to minimal numbers attending and with the agreement of the householder.

#### 5. Pre-examination meetings, Inquiries and Hearings

There will now be a gradual resumption of in-person events.

**Events already planned around virtual procedure will in most cases continue to be held virtually.** Reporters and caseworkers will consider, on a case-by-case basis, whether there would be a clear advantage in converting scheduled virtual events to in-person format, and whether that could be readily achieved. If that proves not to be the case, those events will proceed virtually as planned, and no delay will be permitted to facilitate in-person attendance. Doing so would have the unfortunate effect of building a backlog in cases, which has throughout the pandemic been largely avoided.

We will endeavour to webcast proceedings to ensure that proceedings are able to be observed remotely. No party who wishes to give evidence will be precluded from doing so.

It is essential that virtual and in-person events comply with any physical distancing, hygiene and other requirements in force at the time. Reporters will enforce these requirements. Failure to comply will cause the Reporter to suspend the proceedings and may also be regarded as unreasonable conduct for the purposes of expenses claims.

#### 6. Guidance for those participating in Site Visits, Pre-examination meetings, Hearings and Inquiries

Whether participating in-person or virtually, please:

- ensure that any physical distancing guidance is respected and refer to the latest NHS Scotland guidance shortly before such participation so that you have the most up to date information on the risks and on how to avoid catching or spreading coronavirus. This will include the wearing of face coverings when moving around within buildings; and

- check with the local planning authority or with the DPEA case officer that the procedure is going ahead before travelling to any location in order to participate.

## **7. Looking beyond pandemic restrictions: a future operating model for DPEA**

Remaining constraints will continue for now to affect DPEA operations, particularly its public interface with appeal parties and other stakeholders. DPEA has, however, started work on how the service delivery innovations necessitated by Covid restrictions can be adapted into a future operating model.

For example, there have been clear case management and efficiency gains arising from the introduction of virtual pre-examination meetings. Some participants have found virtual participation in hearings and inquiries more convenient and less daunting. We think it likely that a future approach will entail a mix of in-person, virtual and blended events, depending on the individual circumstances of each case.

DPEA will consult with its Stakeholder Group with the intention of capturing these innovations for the longer term in a DPEA Guidance Note.