



Each case is unique and must be considered on its merits. It is for the person appointed to determine the case to satisfy him/herself that the application of the practice contained in this note is appropriate to the circumstances of the case. A reporter who intends to depart from the guidance should advise his/her SGL so issues emerging can be considered for future case work.

Guidance note for:	Reporters and parties
Relating to:	Addressing effectiveness and efficiency to avoid undue delay in public local inquiries and hearings held in respect of planning appeals, wind farm applications and local development plan examinations
Background:	<p>Efficiency and effectiveness in the management of the processes and procedures in planning appeals and analogous matters are vital aspects of the appeal process and compliance with procedural rules and co-operation to minimise delay in appeals are important to the proper operation of the appeal system.</p> <p>While there is discretion to accommodate unavoidable failure to comply with procedural requirements and it is understood that at times such failures are inevitable (so long as no unacceptable prejudice is caused), it is the responsibility of all involved in an appeal to use best endeavours to comply with these requirements and co-operate with DPEA to maximise effective operation of the planning appeal system.</p> <p>Guidance Note 11 sets out expectations in respect of the initial stages of appeals to which the relevant appeals regulations apply.</p> <p>This note provides guidance where public local inquiries and hearings are held in any context where DPEA are engaged.</p>
Legislation	<p>Town and Country Planning (Appeals) (Scotland) Regulations 2013 govern the statutory requirements in respect of appeals covered by those Regulations (as set out in GN11).</p> <p>The guidance set out in this note will apply to all public local inquiries and hearings held by Reporters where DPEA are engaged.</p>
DPEA practice	<p>Guidance Note 11 sets out expectations in respect of the initial stages of appeals and where Hearing and Inquiry Sessions are applicable, the Hearing and Inquiry Session Rules give discretion to reporters to set out a timetable for the submission of statements and documentation.</p> <p>The principles of prior disclosure and expeditious progressing of the appeal or application lie at the heart of this process.</p> <p>On prior notice, it is essential that no party gains an unfair advantage by lodging late material – for example the delayed submission of a precognition could enable the late party to respond to the precognitions of those parties who submitted theirs timeously. Failure by parties to comply with the timetable is liable to cause prejudice to other parties or unduly delay the determination of the appeal and could result in an application for and award of expenses against the parties concerned.</p>

If a party attempts to lodge additional material outwith the exchanges allowed for by the reporter, the reporter should require the party to justify why it was not submitted on time, and why it is essential to admit it at this late stage, and seek the views of other parties before deciding whether to admit it.

This applies to closing submissions as it applies to other procedural stages, which will be expected to be made timeously and concisely.

Where a risk arises of advantage being gained by delay or non-compliance (even if not intended), reporters will carefully consider appropriate responses.

Fair opportunities to put a parties case to the reporter must be balanced against prejudice where not done in compliance with procedural requirements.

Typical timescales where such sessions are appropriate are as follows-

- Accompanied site inspection 4-6 weeks from receipt of appeal
- Pre-examination meeting 8 weeks from receipt of appeal
- Hearing 6 weeks after pre-examination meeting
- Inquiry 8 weeks after pre-examination meeting
- Closing submissions will be (a) other parties 1 week after inquiry/hearing closes (b) Planning Authority 2 weeks after inquiry/hearing closes and (c) Appellant 3 weeks after inquiry/hearing closes.

These typical dates for the Inquiry or Hearing taking place are important in the expeditious progressing of the appeal or application, in order to minimise delay in deciding or reporting.

While recognising the preference of parties to use their preferred legal and other professional advisors, it will often not be possible to meet those timescales if dates are fixed with undue reference to diaries of preferred professional advisors. This can be a particular problem for lengthy inquiries or hearings where those advisors will require to be present throughout.

The overarching requirement will remain to ensure fairness and apply a reasonable and proportionate approach to setting dates.

Not all such advisors are crucial to a parties case nor need be present throughout. Where there are good reasons why a particular expert witness and their convenience may be appropriate to seek to accommodate, that can be done, while still setting early inquiry or hearing dates.

Reporters will though in future look at set dates and durations of inquiries or hearings without reference to diaries of preferred professional advisors.

This practice will apply, as noted above, not just to cases where the Hearing and Inquiry Session rules apply, but all matters involving hearings

	and inquiries (including wind farm applications and on local development plan examinations).
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