

CODE OF PRACTICE PROCEDURE FOR HEARINGS

The Local Authorities Traffic Orders (Procedure) (Scotland) Regulations 1999 requires hearings to be conducted by an independent person appointed by the local authority from a list of persons compiled by Scottish Ministers. In practice hearings will be carried out by Reporters from The Scottish Executive Inquiry Reporters Unit (SEIRU). Any objectors to the Order have the right to appear before and be heard by the Reporter before he or she reaches a decision on such an appeal.

It is important that both the objector and the local authority understand and accept that the hearing will be conducted in accordance with the rules set by the Reporter, and the procedure set out in this code of practice. These procedures are, of course, designed to embody the rules of fairness and natural justice.

This code contains the procedure which the objector and the local authority will be invited to follow where a hearing has been agreed to. This procedure is intended to save time and money and to allow the Reporter to lead a discussion about the matters at issue. The aim is to give everybody, including interested third parties, a fair hearing and to provide the Reporter with all the information necessary for a decision.

The target will be for the hearing to take place within 12 weeks of the date (the 'Relevant Date') on which it is known that the case is to be heard at a hearing.

An important element of this procedure is that the Reporter must be fully aware of the issues involved and the arguments likely to be made at the hearing, so that he/she can properly lead the discussion. It is, therefore, essential that within 4 weeks of the 'Relevant Date', the local authority provide SEIRU with a copy of the objections and a written statement containing full particulars of the case they wish to make at the hearing, and any documents or extracts of documents they intend to refer to. The statements will be passed to the Reporter to enable him to prepare for the hearing. At the same time as sending their statement to SEIRU, the local authority will send a copy of their statement to the objectors.

Failure to adhere to this timetable can disrupt seriously the procedure. If the Reporter cannot be provided with the necessary information in sufficient time before the hearing, it may be necessary to delay or defer it.

The arrangements for the hearing and the conduct of it will be designed to create the right atmosphere for discussion and to eliminate or reduce the formalities sometimes encountered at a public local inquiry for planning appeals. To this end, the accommodation provided for the hearing will be informal and the Reporter and the parties should wherever possible sit round a table; a small committee room is frequently satisfactory and the more formal atmosphere of a council chamber should be avoided.

The Reporter will conduct the hearing. After resolving any doubts about the application or plans, he/she will explain that the hearing will take the form of a discussion which he/she will lead based on an agenda that has been prepared and issued to parties about a week before the commencement of the hearing.

The Reporter will then review the case as he/she sees it from the reading of the papers and the pre-hearing site visit that will have been made. The Reporter will outline the main issues, and indicate those matters where further explanation or clarification is required. This will not preclude the parties from referring to other aspects which they consider to be relevant provided that adequate notice and particulars have been given.

Written material should have been circulated and exchanged beforehand so that it is fully understood and will not normally need to be read out at the hearing. Every effort should be made by the parties to avoid introducing new material or documents not previously referred to, as this may necessitate adjournment of the hearing to a later date and frustrate the objectives of the hearing procedure.

Those participating in the hearing will be able to ask questions informally throughout the proceedings, subject only to the questions being relevant and the discussion being conducted in an orderly manner. The Reporter will indicate when he/she considers that sufficient clarification of a topic has been achieved, and will then move on to the next item on the agenda. The objector(s) will be asked to start the discussion. He/she may do this through an agent or adviser, but such representation is not essential. Each party will have an opportunity to comment on the submissions made by other parties. The Reporter will discourage repetitive or superfluous comments.

Before the end of the hearing the Reporter will consider whether there should be a further visit to the site, and will advise parties of the arrangements. If appropriate he/she may decide to adjourn the hearing to allow further discussion of relevant matters on site.

A report with recommendations will be issued within 6 weeks of the hearing and will be sent to all those who took part.

It is most likely that cases will be dealt with by one of a panel of part-time Reporters. Their current (April 1999) daily rate for inquiry/hearing is set at £150 and £20.00 hourly (the rate is reviewed annually on 1 April). A typing supplement charge of £2.00 per page of report is also made. In addition, of course, travel and subsistence would be claimed at Scottish Executive rates.