

## **Responses to webinar questions for ‘Public rights of way casework: Best practice in opposed order written representations, hearings, and inquiries’**

During the webinar, we responded to questions from participants (which you can find in the recording), however we ran out of time to respond to all questions.

Below are our responses to the remaining questions.

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### **Question:**

Venues for Inquiries are becoming more difficult to organise. How near to an Order route ought a venue be?

### **Answer:**

Detailed guidance concerning venue requirements are available on GOV.UK ([Public inquiries: Hearings and Examinations - venue and facilities requirements - GOV.UK](#)) (see in particular paragraph 1.4).

It is recognised that it is not always possible to find a suitable venue in the vicinity of the order route. This is something the Inspectorate approach on a case-by-case basis. If OMAs are struggling to locate an appropriate venue then they should contact the relevant case officer as soon as possible. In some circumstances it may be appropriate to hold a virtual event.

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### **Question:**

At what point in the process will an OMA be informed of the need for an inquiry to be held in a hybrid format. Might we be required to run the event as a hybrid event at short notice (maybe with only a few days warning)?

### **Answer:**

Only statutory parties, with a right to be heard, may be entitled to ask to be heard virtually, therefore the matter should be clear at an early stage. There is always a possibility of an unexpected circumstance leading to a late request. An inspector would consider the circumstances as to whether the OMA could be reasonably expected to host a hybrid event or whether the event should be adjourned for a short period to enable the organisation.

[Guidance for Local Planning Authorities and others hosting virtual events for the Planning Inspectorate - GOV.UK](#)

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### **Question:**

How does the Inspectorate prioritise the order the cases are dealt with when they are received? Sometimes you respond and decide to deal with a referral that was submitted

after an earlier one when we are still waiting to hear from you about. Does it come down to areas/Inspectors/caseload?

**Answer:**

We prioritise opposed orders made under the Town and Country Planning Act 1990, as these tend to have associated time-sensitive planning permissions. Otherwise we generally deal with opposed orders on a chronological basis from date of receipt.

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**Question:**

Re: the OMAs statement on the objections at submission stage. How detailed does this need to be? When the objection is substantial it can take a long time to cover all the points. What I am conscious of is that whilst I am working on that statement the order has not even been submitted yet! Can the statement on the objections be short (i.e. we don't believe these objections change the councils view on confirmation) and then the detailed response be left to the statement of case? I can then work on the detailed statement whilst waiting for the start date?

**Answer:**

If you consider that the objections are irrelevant it is useful to set those out so that we can consider that point at an early stage. If they are relevant objections, but do not alter your view, then you could deal with them later in submitting your statement of case. The other option would be to do the work upfront and use your statement of grounds as your statement of case, so not duplicating your work.

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**Question:**

Can we have a link to the irrelevant objection case, please?

**Answer:**

Lasham Parish Meeting v Hampshire County Council and The Secretary of State for the Environment (QBD) (1993) 65 P & CR 331, [1993] JPL 841

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**Question:**

Is that 7-8 months from submission to start date?

**Answer:**

Our backlog is not measured from submission to start date, but rather from submission to initial validation.

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**Question:**

It is understood that OMAs aren't able to assess the validity of an objection beyond whether or not it is duly made. This means that even if the grounds are largely irrelevant, we are forced to create a full submission pack to get a decision on the relevance of such an objection. This represents hours of work for small and resource-poor teams in OMAs. Is there any way to create an abbreviated process to validate the relevance of an objection without creating a full package?

**Answer:**

While we recognise that preparing submissions for such cases can be a resourcing challenge for OMAs, we remain of the view that the OMA Checklist should be followed in full for each referral regardless of whether it is felt that the objection(s) are relevant or not. Even if objections are ultimately found to be irrelevant, a decision still needs to be reached on the order, and therefore the evidence is required by the Inspectorate.

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**Question:**

Where a County Council who are the Highway Authority are acting as an agent of an OMA (LPA) to process a s257 TCPA PPO (without a formal transference of powers), would PINS expect the OMA (district/LPA) to appear at an Inquiry/Hearing or make a representation to a written rep.

**Answer:**

There is no requirement and it would be for the parties involved to satisfy themselves that all the relevant evidence is before the inspector, no matter who is presenting it. Don't forget that the planning matters will have already been decided and, whilst some objectors may think it to be the case, it is not a matter before the inspector in considering the stopping up or diversion of a right of way.

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**Question:**

Can I ask the reason for the OMA having a shorter timeframe for their statement of case than other parties? Especially when for written representations there is a chance to comment on each others statements later in the process anyway. I struggle to see any advantage on the OMAs statement being received earlier.

**Answer:**

It was initially incorrectly suggested during the webinar that order making authorities (OMAs) and other parties always have the same statement of case (SoC) deadlines. This was incorrect – apologies for the confusion here. I was confusing the advertised modifications process (where deadlines are the same) with the process more broadly.

The hearing and inquiry deadlines are set out in the [2007 Rules](#) and listed in our guidance booklet ([Guidance on Procedures for Considering Objections to Definitive Map and Public Path Orders - GOV.UK](#)). The SoC deadline for OMAs is always slightly shorter than other parties: within 2 weeks of the start notice in written representations cases (against 8 weeks for other parties); within 8 weeks of the start notice in hearing cases (against 12 weeks for other parties); and within 8 weeks of the start notice in inquiry cases (against 14 weeks for other parties).

The written representations deadlines are non-statutory, in that they are not specified in the 2007 Rules. The rationale for asking OMAs to submit their SoC ahead of other parties is that, as the party that has made the order, it is for them to make the case for confirmation. Doing so allows other parties to respond directly to the case for confirmation in their SoCs. Ideally, this staged approach also helps to shape the exchange of representations, ensuring that arguments remain focused and grounded in the relevant statute.

Note that there is no need for the OMA to submit a separate SoC if they are satisfied that their Statement of Grounds sets out their position clearly.

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**Question:**

Where an OMA submits a case to PINs for determination and has already submitted user evidence forms and is not supporting its own order, does the party that is supporting the confirmation of the order has to re-submit the user evidence. This seems to be an unnecessary duplication of effort - however, it is not always the case that OMAs put on deposit the evidential and other documents that they have already submitted to PINs.

**Answer:**

The 2007 Rules make clear that OMAs must make all documents available to the public, and this includes their own submissions. In circumstances where UEFs were submitted to the OMA as part of an application, the Inspectorate would expect these to be submitted to them by the OMA. If a party wishes to rely on evidence that they believe the OMA should have submitted and have not, then they should contact the relevant Inspectorate case officer.

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