

**Roads Service Policy & Procedure Guide: RSPPG\_S027**

**Title: PUBLIC INQUIRIES – Land Acquisition and Traffic Management**

**Author :** O Hamill  
**Owner :** Director of Corporate Services  
**Version :** 3  
**Date Issued :** 23rd April 2007

**Classification**

**Procedure Category :** Statutory  
**Business Category :** Legislation  
**Business Function :** Land Acquisition/Traffic Management  
**Business Activity :** Inquiries

**Notes**

**Certification**

This document complies with Roads Service Policy and is to be implemented with effect from the date of issue.

(Signed) R Cairns Director of Engineering

Certification Date: 23rd April 2007

## CONTENTS

<b>1</b>	<b>INTRODUCTION</b>	<b>4</b>
1.1	Purpose	4
1.2	Definitions	4
1.3	Background	4
1.4	Implementation	6
1.5	Costs and Benefits	6
1.6	General	6
1.7	Equality Impact Assessment (EQIA)	7
<b>2</b>	<b>ROADS SERVICE POLICY &amp; PROCEDURE – ROADS SERVICE HEADQUARTERS</b>	<b>8</b>
2.1	BEFORE THE INQUIRY	8
2.2	AFTER THE INQUIRY	10
<b>3</b>	<b>ROADS SERVICE POLICY &amp; PROCEDURE – THE DIVISION</b>	<b>12</b>
3.1	BEFORE THE INQUIRY	12
3.2	DURING THE INQUIRY	16
3.3	AFTER THE INQUIRY	19
<b>4</b>	<b>ROADS SERVICE POLICY &amp; PROCEDURE – MEMBER OF THE PUBLIC AS INQUIRY PARTICIPANT</b>	<b>20</b>
4.1	BEFORE THE INQUIRY	20
4.2	DURING THE INQUIRY	21
4.3	AFTER THE INQUIRY	22
<b>5</b>	<b>ROADS SERVICE POLICY &amp; PROCEDURE – THE INSPECTOR</b>	<b>23</b>
5.1	CHANGE OF INSPECTOR	23
5.2	BEFORE THE INQUIRY	23
5.3	DURING THE INQUIRY	25
5.4	AFTER THE INQUIRY	34
<b>6</b>	<b>APPENDICES</b>	<b>36</b>
6.1	Appendix 1	36

**Version : 3**

6.2	<b>Appendix 2</b>	<b>38</b>
6.3	<b>Appendix 3</b>	<b>39</b>
6.4	<b>Appendix 4</b>	<b>40</b>
6.5	<b>Appendix 5</b>	<b>41</b>
<b>7</b>	<b>ROADS SERVICE POLICY &amp; PROCEDURE GUIDE:</b>	<b>42</b>
	<b>Title: RSPPG S027</b>	<b>42</b>

## 1 Introduction

### 1.1 Purpose

1.1.1 This Roads Service Policy & Procedure Guide (RSPPG):-

- a) is aimed at all Roads Service staff involved in Land Acquisition and other activities involving Public Inquiries and includes guidance which can be made available to inspectors and members of the public.
- b) replaces section 1007 of the Roads Service Roads Manual

### 1.2 Definitions

1.2.1 **Objection** (and **objector**) is taken to refer to any objection, representation or opinion in respect of the Department's proposals for the purposes of this document.

1.2.2 **RSHQ** – Roads Service Headquarters

1.2.3 **DRM** – Divisional Roads Manager

1.2.4 **DSO** – Departmental Solicitor's Office

1.2.5 **LLB** – Lands and Legislation Branch

### 1.3 Background

1.3.1 The vast majority of objections relating to Roads Service proposals are dealt with by means of correspondence and meetings without the need to convene a local inquiry or hearing. This process should be exhausted before recourse to a local inquiry is sought. Further guidance is given in the Roads Service Manual in RSPPG S002 - paragraph 2.1.3.4.

1.3.2 Objectors have a right to have their objection considered, particularly where contentious issues arise, but it is for RSHQ to determine if a local inquiry is to be held.

1.3.3 The procedure for inquiries is to be found in the relevant Roads Service legislation, i.e. Article 65 and Schedule 6 to the Road Traffic Regulation (Northern Ireland) Order 1997 (as amended by section 48 and Schedule 2 to the Inquiries Act 2005), Article 130 of the Roads (Northern Ireland) Order 1993 (as amended by section 48 and Schedule 2 to the Inquiries Act 2005) and Schedule A1 to the Interpretation Act (Northern Ireland) 1954. Schedule A1 as amended by Article 130(2) of the Roads (Northern Ireland) Order 1993 is reproduced in Appendix 1.

1.3.4 This document sets out the administrative practices which will generally be followed by Roads Service. In addition it outlines the procedures to be adopted by inspectors to ensure that all of the issues can be considered fairly, thoroughly and consistently but without unnecessary formality, technicality or delay and provides guidance for members of the public.

1.3.5 Although the guidance is intended to be followed generally, individual cases may mean that exceptions from its terms will from time to time be appropriate.

1.3.6 Roads Service (and all other parties) should comply with the policy and requirements set out in this guidance and contribute by:

- complying with the requirements for timely pre-inquiry disclosure of information about their case in a structured, consistent and comprehensive manner;
- observing the timescales set down in the framework provided here or fixed by the inspector;
- presenting a focused and constructive approach to suggestions from the inspector and other parties with a view to narrowing the range of issues to be considered at the inquiry;
- ensuring that no irrelevant or non-essential detail (or repetition) is presented as evidence to the inquiry and focusing on the critical issues which properly require to be considered; and
- presenting their evidence to the inquiry, whether oral or written, in as succinct and focused a manner as possible without prejudicing the ability of other parties to participate.

1.3.7 LLB appoint an inspector to take charge of an inquiry. The inspector once appointed, will act as an independent arbiter of the facts presented to him in the form of written submissions and in oral evidence in the course of the inquiry.

1.3.8 It is vitally important that the inspector obtains the information necessary to make an informed and reasoned recommendation on the Department's proposal and any objections being considered at an inquiry. To do this, he hears evidence from the parties and may also seek such other information, as he considers appropriate. He must be satisfied before the inquiry ends that he understands the relevant arguments and submissions.

1.3.9 The inspector has wide discretion in conducting the inquiry. The inspector must, however, always act in accordance with the principles of natural justice which encompass fairness, openness and impartiality. He will, for example, ensure that the parties to the inquiry have an adequate opportunity to present their case and that they have a fair hearing.

1.3.10 Whilst continuing to observe the rules of natural justice at all times, the inspector will also have regard to exercising control over the way in which parties present their case to the inquiry to ensure that the inquiry is run efficiently and that inquiry time is not wasted but is used to the best advantage of all concerned. For example, in order to avoid spending time on matters that are not disputed, where agreement can be reached more easily or quickly outside the inquiry itself or where sufficient evidence has already been given to establish a particular point the inspector may intervene to bring representations of repetitive or irrelevant evidence to an end. In doing so he will seek to ensure that the inquiry focuses on the critical issues in a thorough manner which minimises formality.

## 1.4 Implementation

1.4.1 This RSPPG is to be implemented with effect from date of issue.

## 1.5 Costs and Benefits

1.5.1 As this RSPPG is to replace an existing RSPPG the costs and benefits are not relevant at this time.

## 1.6 General

### 1.6.1 Expenses in relation to inquiries

1.6.1.1 The Department's policy on awarding costs in connection with public inquiries is similar to that applicable in Great Britain. Briefly, reasonable costs incurred by an objector attending or being represented at an inquiry are reimbursable only where that person had the threat of compulsory acquisition removed from his land.

1.6.1.2 The question of costs is a complicated one and each case requires careful consideration on its merits. Consequently, care should be taken that no promise of payment is given or suggestion made which could in any way compromise the consideration of a claim for costs.

1.6.1.3 Normally parties will be expected to meet their own costs. There is a distinction between cases where applicants take the initiative, such as in applying for consent and in cases where objectors are defending their rights or interests which are the subject of a vesting order. If a statutory objector to a vesting order is successful, an award of expenses will be made in his favour unless there are exceptional reasons for not doing so. To enable an award to be made on grounds of success, the claimant must have made a formal objection to the order; the order must have been the subject of a public inquiry and the claimant must normally have attended (or been represented at) the inquiry and been heard as a statutory objector. In addition, the claimant must have had his objection sustained by the Department's refusal to confirm the order or by its decision to exclude the whole or part of the objector's property.

## **2 Equality Impact Assessment (EQIA)**

### **2.1.1 Equality Impact Assessment Section 75 of the Northern Ireland Act 1998**

#### **2.1.1.1 Equality Screening Analysis**

- a) This RSPPG has undergone EQIA screening and it was considered that it did not have significant implications for equality of opportunity thereby making it unnecessary to carry out a full Equality Impact Assessment.
- b) A copy of the completed 'Equality Screening Analysis Form' has been signed off and forwarded to the DRD Equality Unit via the Policy and Communications Branch.

### **3 Roads Service Policy & Procedure – Roads Service Headquarters**

#### **3.1 BEFORE THE INQUIRY**

##### **3.1.1 Decision to Hold Inquiry**

3.1.1.1 The decision to hold an inquiry is taken at RSHQ at Senior Officer level generally following a submission by the DRM relating to the objection(s) to the proposal in question, recommending either that the Department proceed without recourse to an inquiry or that an inquiry be held.

3.1.1.2 LLB provide a further submission which should include, as a minimum, a well-reasoned case setting out the proposals, the background, the objectors' case and Division's response.

3.1.1.3 The decision to hold or not to hold an inquiry should take account of relevant principles of law such as the need for a decision making process in accordance with the requirements of administrative law and Human Rights law.

##### **3.1.2 Fixing a date for the Inquiry**

3.1.2.1 It is essential to have close liaison between LLB and Divisions in preparing for an inquiry. Before fixing a date for the inquiry LLB will obtain an estimate from the Division as to how much time is required to prepare the Departmental Statement.

3.1.2.2 On receipt of this timescale LLB will appoint an inspector from a list of suitably qualified people on the basis of experience and availability. This list is comprised of individuals who were identified by Roads Service from a central appointments list compiled by OFMDFM and who have confirmed that they are willing to undertake the duties of an inspector. A Sample copy of the Notice of appointment and letter of appointment are described in Appendices 2 and 3.

3.1.2.3 If LLB consider that Roads Service needs to be legally represented at the inquiry it will consult/instruct the DSO about Roads Service's legal representation at the inquiry. The Department may be represented at the inquiry by counsel appointed by the DSO or a solicitor from the DSO. Alternatively the DSO may advise that legal representation is not required.

3.1.2.4 After the above initial steps have been carried out LLB will arrange the date to suit the inspector, DSO and the Division. Holiday periods should be avoided.

##### **3.1.3 Notice of Inquiry**

3.1.3.1 LLB will draw up the Notice of the Inquiry and will arrange publication in appropriate newspapers based on advice provided by Divisions. In the case of an Inquiry held under the Road Traffic Regulation (Northern Ireland) Order 1997 the notice must be published in a newspaper circulating in the area of the subject and in the Belfast Gazette. In the case of a major road scheme, notice should be published in the Irish News, News Letter and Belfast Telegraph and in a newspaper circulating in the area. In all other cases the notice should be published in one or more newspapers circulating in the area of the subject. A specimen notice is given in Appendix 5. Publication is required during one week only and at least eight weeks' notice should be given. However for a complex inquiry publication for two consecutive weeks and a longer period of notice may be more appropriate.

3.1.3.2 Maps and information on the Departments proposals should be made available for inspection in appropriate locations.

3.1.3.3 At the same time as the Notice of Intention is published LLB will send individual notifications to objectors (by recorded delivery) and other interested parties including the relevant district council(s). Information that should be included:-

- Guidance Notes
- Departmental Statement without attachments
- Notice
- Draft Order (for abandonments only)

3.1.3.4 The Division should provide LLB with a list of all the objectors and other interested parties. In the case of a petition, LLB will usually notify only the individual who submitted the petition and provide him with one or more copies of the above documents.

#### 3.1.4 **Assessors and Assistant Inspectors**

3.1.4.1 In certain cases LLB may appoint a suitably qualified assessor to sit with the inspector during the inquiry and to advise him on specified matters, for example where there are complex or technical issues to be considered. Where an assessor is appointed, LLB will notify in writing all those entitled to appear at the inquiry of the assessor's name and of the matters on which he will advise. Such an appointment will normally be at the request of the Inspector.

3.1.4.2 LLB may appoint an assistant inspector where the purpose of so doing is to provide a new inspector with experience of the inquiry process.

3.1.4.3 Additionally, in particularly complex cases involving a large number of objections or where there is considerable public interest LLB may appoint an assistant inspector at the request of the inspector to assist him in the running of the inquiry.

## 3.2 AFTER THE INQUIRY

### 3.2.1 The Verbatim Report of the Inquiry

3.2.1.1 Where requested a copy of the verbatim report should be sent to the inspector as soon as possible after it has been produced.

### 3.2.2 Consideration of the Inspector's Report

3.2.2.1 Depending on the complexity of the Inquiry, the inspector's report would normally be expected within 6 weeks of the closing of the Inquiry. When the inspector's report has been received at RSHQ a copy should be sent to the DRM with a request for his comments on the report and to provide a draft Departmental Statement.

3.2.2.2 LLB will forward the Inspector's Report, draft Departmental Statement and DRM's comments to DSO and, in the case of major road schemes, Network Development Branch, for consideration.

3.2.2.3 Upon receipt of DSO comments and, where appropriate, Network Development Branch comments, LLB will produce a submission to the Director of Corporate Services making recommendations on the way forward. Having considered the inspector's report the Director of Corporate Services will decide whether to proceed without modifications or subject to such modifications as he thinks fit or not at all.

3.2.2.4 Where Roads Service disagrees with the inspector on a finding of fact, or proposes to take into consideration new evidence or any new issue (other than issues which are a matter of government policy) and this leads it to disagree with a recommendation made by the inspector, LLB will notify the objectors and other interested parties of this new evidence and will afford them an opportunity of making further representations. Such representations must be made in writing within three weeks of the notification. In cases where Roads Service proposes to consider new evidence or issues, the notified parties may request in writing that the inquiry be reopened to consider such matters.

3.2.2.5 For a reopened inquiry, the same requirements apply to the notifications to parties of the date, time and place arranged subject to three weeks notice of the inquiry rather than eight or more weeks as apply to a normal inquiry.

3.2.2.6 The Department will not circulate the inspector's report before a decision is made.

### 3.2.3 Notification of decision

3.2.3.1 When Roads service has made a decision, the Departmental Statement should be copied to all objectors and any other person who appeared or was represented at the inquiry and who has asked to be notified of the decision. The statement should advise that a copy of the inspector's report will be available for inspection.

3.2.3.2 In notifying the principal objectors of its decision the Department will normally append a copy of the inspector's report, if convenient. This will include a copy of an assessor's report, where applicable, but not supporting documents. For other parties the notification will usually include a summary of the inspector's conclusions and recommendations.

3.2.3.3 This is the end of the inquiry process. Whilst the Department will not normally consider representations on the report findings, objectors who are not satisfied still have the right to seek a judicial review.

3.2.3.4 Once the Inspector submits his invoice LLB process the account and arrange payment costed to the relevant Division.

## 4 Roads Service Policy & Procedure – The Division

### 4.1 BEFORE THE INQUIRY

#### 4.1.1 Decision to Hold Inquiry

4.1.1.1 The decision to hold an inquiry is taken by RSHQ at Senior Officer level generally following a submission by the DRM relating to the objection(s) to the proposal in question, recommending either that the Department proceed without recourse to an inquiry or that an inquiry be held.

4.1.1.2 The submission by the DRM should set out the proposals, the background, the objectors' case and Division's response, together with a map and copies of all correspondence.

4.1.1.3 Where a decision has been taken to hold a public inquiry Roads Service personnel will ensure that arrangements for the inquiry are carried out in accordance with DRD Guide to Making Information Accessible.

#### 4.1.2 Notification

4.1.2.1 Action should be taken to ensure that all officers or Departments required to make any contribution to the inquiry are made aware of the part they have to play.

#### 4.1.3 Action within the Division

4.1.3.1 The Division will appoint an official to take the lead in preparing the Department's case for the inquiry.

[At least one copy of all the written material submitted to the inspector before the inquiry, including statements, documents, etc should be made available for inspection throughout the inquiry by all of the parties and by members of the public.

The Division should ensure that ample copies of these papers are available at the inquiry venue for this purpose. A list of all documents available during the public inquiry, particularly for schemes where there is a large number of reference documents should also be made available at the inquiry. Members of the public particularly appreciate being able to consult these during the proceedings.]

The Division should forward copies of objections to the proposals together with the Departmental Statement to LLB who will pass them to the DSO in sufficient time for consideration by Counsel or the Solicitor who is to present the case and also for consultation with Departmental staff and witnesses.

#### 4.1.4 Departmental Statement

4.1.4.1 Departmental Statements should be succinct and concise, and should ideally contain facts and expert opinions deriving from witnesses' own professional or local knowledge as applied to individual cases. Where it is necessary to set out facts in detail, the statement should focus on what is really necessary for the matter in hand, and avoid including unnecessary material. The statement should contain details of the background as to the need to hold an inquiry and the Division's reasons for wishing to implement the proposed measure. The statement will be vetted by the DSO through LLB.

4.1.4.2 In any case where measurements and boundaries are involved (e.g. the length of a waiting restriction) the designation should be marked clearly on a map so that for the purpose of consideration at a public inquiry there will be no dispute about the extent and location of a proposed measure.

4.1.4.3 The text of national policies should not be repeated in the statement, since these should be available to all parties as 'core' documents. Where, in the statement, a point is made in reliance upon such a document, the title and document number should be given and the relevant page and paragraph number should always be identified.

4.1.4.4 The statement should include a list of all documents if any, that Roads Service (Division) intends to present in evidence.

4.1.4.5 Where the Division has received a large number of objections, it may enclose with its statement a summary, including a full list of the names and addresses of all those who have made objections (unless the writer has asked that it be treated as confidential) rather than a copy of each individual objection.

4.1.4.6 Where a Departmental Statement is extremely lengthy or complex it may be accompanied by a summary. As a guide, the summary should not exceed 10% of the length of a statement and should condense the gist of the statement, concentrating on the case in relation to the main points at issue. The content of the summary should not go beyond the scope of the text it purports to summarise.

4.1.4.7 Once DSO have vetted the Departmental Statement the Division is required to make available copies of all statements of case and any supporting documents for inspection at reasonable times at its offices or some other suitable location, and to allow interested parties to take copies of these, where practicable. Sufficient copies of the Departmental Statement (and, where appropriate, summaries) should therefore be prepared for all the principal participating parties and distributed to them. The number required will depend on the degree of local interest but ample copies of the Departmental Statement should be prepared and made available at the Inquiry to make it easier for interested members of the public to follow the proceedings. The Departmental Statement should include a statement specifying where and when documents may be inspected which will include a website.

#### 4.1.5 **Site Visit**

4.1.5.1 If the Division considers that there is good reason for a site inspection to be carried out at an early stage, this should be notified to the inquiry's programme officer, or the inspector, at least three weeks before the inquiry.

#### 4.1.6 **Fixing a date for the Inquiry**

4.1.6.1 It is essential to have close liaison between LLB and Divisions in preparing for an inquiry. Before fixing a date for the inquiry LLB will obtain an estimate from the Division as to how much time is required to prepare the Departmental Statement. (Note: In instances where the case is particularly complex or where there is a very large number of third parties this may require additional time).

4.1.6.2 The Departmental Statement must be with LLB and cleared by the DSO prior to the publication of the Notice of Inquiry.

#### 4.1.7 **Notice of Inquiry**

4.1.7.1 The Division should provide LLB with a list of all the objectors and other interested parties. LLB will arrange for publication of the Notice and forward a copy to the Division together with details of the publication dates. The Division makes maps and information on the Departments proposals available for inspection in appropriate locations as specified in the Notice.

#### 4.1.8 **Venue and Equipment**

4.1.8.1 LLB will request the Division to make arrangements for the use of suitable premises, e.g. a local hotel, for whatever period the inquiry is expected to last. It may be worthwhile to consider the booking of more than one room, one to use for the main Inquiry and the other for the Inspector to consider things away from the public. Things that should be considered are:-

- Where possible the inquiry should be held in the vicinity of the proposed scheme.

- The venue should, if possible, be convenient to public transport routes and be appropriately signed to the actual room within the building.
- In choosing a venue the Division should consider the access needs for persons with a disability.

4.1.8.2 Division should ensure that enough chairs and tables are available for accommodation of those likely to be present having regard to the nature and extent of the inquiry. If possible set the room up the day before the Inquiry. A typical layout of tables, tables and other equipment is shown in Appendix 4.

4.1.8.3 Arrangements should be made for the supply of the following equipment, if required, which may not be available in the premises used for an inquiry-

- i. Free standing display boards for exhibition of maps etc.
- ii. Overhead projector/data projector
- iii. Public address system when a large attendance is anticipated of where acoustics are poor.
- iv. Recording facilities for the production of a verbatim report of the proceedings or a stenographer (details of which can be obtained from LLB).

#### 4.1.9 **Programme Officer**

4.1.9.1 An officer of the Department, usually from the Division in which the inquiry is being held, may be assigned to facilitate the inspector's running of the inquiry should the size/complexity of the proposal warrant it or at the request of the inspector. This appointed officer will be seconded for the duration of the inquiry and will act independently throughout. The Programme Officer is responsible solely to the inspector for the smooth running of the inquiry and facilitating him in carrying out his duties. It may be prudent to relocate the Programme Officer to alternative accommodation from the date of his appointment until such times as the Inquiry is closed.

#### 4.1.10 **Correspondence**

4.1.10.1 Letters or other communications may be received before the inquiry from objectors or other interested parties relating to the hearing. For example an objector might indicate that he can only attend for a limited period at a certain time and request that he be heard then. Such letters should be suitably acknowledged by the Programme Officer and copies sent to the inspector by the Programme Officer. Letters addressed to the inspector should also be acknowledged by the Programme Officer and passed to him.

4.1.10.2 All of the inspector's correspondence with the parties to the Inquiry (including Roads Service) should be made through the Programme Officer.

#### 4.1.11 **Pre-inquiry meetings**

4.1.11.1 The inspector may ask the Programme Officer to arrange a pre-inquiry meeting with all parties. If possible, the same venue as that for the formal hearing should be used and all of the parties involved should be invited. The Programme Officer may use the opportunity provided by the pre-inquiry meeting to obtain an idea of the time each party will require to present their evidence in order to arrange the programme for the Inquiry. If a pre-inquiry meeting is not arranged the Programme Officer may seek to obtain the above information through his correspondence with the parties.

4.1.11.2 The DSO may also request a pre-inquiry meeting with counsel and Divisional staff to discuss the Division's case.

#### 4.1.12 **Submission of evidence**

4.1.12.1 Any written evidence should preferably be submitted to the Programme Officer at least 4 weeks before the opening of the inquiry from both the Department and the other interested parties.

4.1.12.2 The Programme Officer will act as the contact person between the inspector and the parties to the inquiry and will forward all documentation to the inspector immediately on receipt.

### 4.2 **DURING THE INQUIRY**

#### 4.2.1 **Inquiry documents**

4.2.1.1 The Division is responsible for producing 'core' documents, such as statements of government policy (e.g. the Regional Transportation Strategy) and local development plans.

4.2.1.2 The relevance of all documents submitted must be explained at the inquiry in evidence or submissions.

4.2.1.3 Documents which will be referred to in evidence normally require to be circulated to the inspector and other parties at least 4 weeks before the inquiry is due to start, and should be carefully prepared, presented and, where appropriate, edited so as to exclude irrelevant matters. Their purpose is to set out in an ordered and readily identifiable form the factual material and technical data upon which evidence is based. They should have identifiable reference numbers, ideally prefixed by letters denoting the name of the party producing them (e.g. A1 Objector's first document).

4.2.1.4 Documents should as far as possible be of A4 size. Bundles of correspondence can be submitted as single documents, provided that each letter is discretely numbered within a separate series. Extracts from published material must indicate their precise content with full titles, chapter headings and dates for verification purposes. Plans, maps and diagrams should be treated similarly, folded to A4 size with the title box displayed. Photographs should normally be mounted on a series of A4 or, where necessary, larger cards. They should be individually numbered, and the viewpoints shown on a separate Ordnance Survey map extract. Times and dates must be given for original photographs. Models to be displayed at inquiries should be photographed, preferably in colour, and copy enlargement prints submitted as documents. Videocassettes, computerised graphic presentations etc are admissible as documents; where a party wishes to submit such material it is the responsibility of that party to ensure that appropriate equipment is available at the inquiry venue to allow it to be seen or heard. Pre-inquiry documentation should indicate the duration of any such material lodged.

#### 4.2.2 **The Programme Officer's Duties**

4.2.2.1 The Programme Officer should be discreet in his approaches to the inspector and undertake no action that might be considered to prejudice the impartiality of the inspector.

4.2.2.2 The Programme Officer is responsible, on behalf of the inspector, for all administrative matters in relation to the running of the inquiry. He shall, at all times, act as the liaison between the inspector and the parties to the inquiry (including Roads Service) in order to maintain the inspector's impartiality and he shall record and report to the inspector (for his information) all contacts in relation to the inquiry.

4.2.2.3 The Programme Officer should ensure that arrangements have been made for recording the evidence. He will also arrange for the production of a verbatim record of the inquiry if requested by the inspector.

4.2.2.4 The Programme Officer should also ensure that chairs, tables etc are arranged appropriately within the inquiry room to ensure that such questions as may be asked and such answers as may be given are audible to everyone in the room.

4.2.2.5 The Programme Officer will attend the proceedings throughout the inquiry. At the start of the inquiry (or each day's proceedings) he will note the names of all those parties attending the proceedings who intend to make a presentation to the inquiry. He will provide the inspector with a copy of this list for his records.

4.2.2.6 The Programme Officer should also make himself available during the course of the inquiry to provide assistance to members of the public seeking advice about the procedures of the inquiry.

4.2.2.7 The Programme Officer may be asked by the inspector to arrange a formal site visit either before or during the inquiry. Those taking part must include, apart from the inspector, the objector (or his agent) and representatives of the Department.

4.2.2.8 If no Programme Officer has been appointed staff from the Division will make the appropriate arrangements for the smooth running of the inquiry.

### 4.2.3 **Attending the Inquiry**

4.2.3.1 The Department may be represented at the inquiry by counsel or a solicitor from DSO.

4.2.3.2 At least one copy of all the written material submitted to the inspector before the inquiry, including statements, documents, etc should be made available for inspection throughout the inquiry by all of the parties and by members of the public. In practice the Roads Service Division should ensure that ample copies of these papers are available at the inquiry venue for this purpose. A list of all documents available during the public inquiry, particularly for schemes where there is a large number of reference documents should also be made available at the inquiry. Members of the public particularly appreciate being able to consult these during the proceedings.

4.2.3.3 Normally the official who took the lead in preparing the Department's case for the inquiry will be the first Departmental witness to give evidence. When called to give evidence he will confirm that he prepared the Departmental Statement and Proof of Evidence (if requested by counsel). He may not be asked to read the full statement but may rather be asked questions by Counsel. Issues that may be the subject of questions include:

- i. the history of the options considered;
- ii. cost;
- iii. the need for the proposal (e.g. safety issues);
- iv. the summary of conclusions about the various options considered (this may be read out);
- v. the scheme objectives;
- vi. the history of the scheme;
- vii. the history of the statutory procedures (if any);
- viii. Regional and National policy;
- ix. appraisal of the options produced by a feasibility study, if any, including any problems with other options;

- x. benefits / economic value of the proposal (including breakdown of relevant costs for each option);
- xi. details of any changes made to the original proposal, if any, and the reasons for them; and
- xii. details of any replies made to objectors including details of why any alternatives suggested is inappropriate.

4.2.3.4 The witness may ask for time to obtain information to answer a question where he does not have the information to hand or he is not the most suitable person to respond to that question. In doing so he should indicate to the inspector how long he may require. It is, however, for the inspector to decide if he will grant such a request.

### 4.3 AFTER THE INQUIRY

4.3.1.1 A copy of the inspector's report, draft Departmental Statement and all related documents, together with the comments of the DRM should be submitted to the Director of Corporate Services, RSHQ.

4.3.1.2 Copies of the Departmental Statements and draft Orders will be made available for public viewing in the locality, for example, in the relevant Roads Service offices and District Council offices.

#### 4.3.2 Record of the Inquiry

4.3.2.1 The inspector's report is the formal record of the inquiry. Officials should, however, arrange to hold any tape recording of the inquiry for not less than 6 months after the notification of the decision is issued. Any hard copy of the verbatim transcript may still be retained.

## 5 Roads Service Policy & Procedure – Member of the Public as Inquiry participant

### 5.1 BEFORE THE INQUIRY

#### 5.1.1 Preparing for the Inquiry

5.1.1.1 Before making a formal objection, objectors should carefully assess the merits of their case and the prospects of success objectively, together with the costs they are likely to incur, and the time needed to pursue the matter. Careful study of the policy background, national policy guidance and Departmental circulars is essential.

5.1.1.2 Potential objectors should also be aware that it is for the inspector to review the arguments and to make a recommendation in accordance with the merits of the proposal but that it is for the Department to make a decision having considered that recommendation and any other relevant material considerations.

5.1.1.3 Early, focused preparation by all parties, as well as by the inspector, is essential if the inquiry is to run as efficiently and effectively as possible. This preparation should be based on the structured, consistent and reasonably comprehensive advance disclosure of the main issues to be considered at the inquiry. This enables others to focus their own preparations more clearly and helps to avoid unnecessary delay or repetition at the inquiry itself.

5.1.1.4 It is essential for parties to ensure that the scope of their case and their interest in the issues to be considered at the inquiry are settled at the earliest possible point in the process. Any proposed additions or extensions to parties' cases should therefore be kept to the minimum consistent with and contributing to the effective consideration of the key issues at the inquiry.

- Any doubts about the procedure to be followed or the inquiry programme should be raised with the inquiry's Programme Officer before the inquiry starts or with the inspector at the opening of the inquiry. As previously mentioned, inspectors will normally be sympathetic to accommodating an interested party who has difficulty in attending throughout the proceedings.
- When listening to the evidence of others, note any additional points which should be answered, this can then be incorporated in the evidence of the interested party.
- There is no need to repeat arguments that have been adequately covered by other parties. It is normally more than sufficient to endorse the point that has been made.

### 5.1.2 **Suggesting alternative sites**

5.1.2.1 If a party intends to refer at the inquiry to an alternative site for the proposal, or in the case of a vesting order, proposes an alternative site for the purpose for which the Order is being promoted, he should inform the inspector at the earliest possible time. In doing so he should ensure that sufficient details of that site are provided to enable it to be properly identified. However, all concerned should bear in mind that an inquiry into a specific proposal for one site cannot turn itself into an inquiry into assumed proposals for other sites. An inspector may however, make a comparative appraisal of the alternative site on the information proffered before and during the inquiry.

5.1.2.2 If any party considers that there is good reason for a site inspection to be carried out at an early stage, this should be notified to the inquiry's Programme Officer (if one has been appointed) or the inspector through LLB before the inquiry, or direct to the inspector at the opening of the inquiry.

## 5.2 **DURING THE INQUIRY**

### 5.2.1 **Attendance at the opening of the Inquiry**

5.2.1.1 It is important that all those who wish to make representations to the Inquiry attend the opening of the Inquiry to find out when they are likely to be called to speak.

5.2.1.2 There is no obligation for any party at an inquiry to be represented professionally. A person intending to present his own case might find the following points useful:

- During the course of the inquiry the Programme Officer will be available to provide assistance to members of the public seeking advice about the procedures of the inquiry.
- The inspector may afford an opportunity to an interested party to ask questions of witnesses. In such cases, questions should be concise and to the point. The inspector may be able to help inexperienced persons to frame questions, but it is often more effective to raise points in your own evidence and refer back to previous evidence as appropriate.
- Where witnesses are repeating evidence given previously by other witnesses and which has been the subject of cross-examination the inspector may limit or refuse further questioning.
- If an objector chooses to present a statement in evidence or question other witnesses he or his representative will, in turn, take the seat set aside, speak into the microphone giving his name and interest before commencing his statement / questioning.

## 5.3 AFTER THE INQUIRY

### 5.3.1 Notification of Decision

5.3.1.1 Any person entitled to receive notification of the Department's decision may apply to the Department in writing within 6 weeks of such notification (or of the supply of the report if that is later), for an opportunity to inspect any documents listed in the notification.

## **6 Roads Service Policy & Procedure – The Inspector**

### **6.1 CHANGE OF INSPECTOR**

6.1.1 Occasionally it may be necessary for the Department to change the inspector or any other person appointed at a late stage before the inquiry. Where this happens, for example, in the case of illness or other unforeseen circumstances, the Department may need to postpone or reconvene the inquiry. Where it is not practicable to notify parties in advance by publication of an official notice the Department may issue a press release. If it is necessary to replace the inspector in such circumstances, the replacement inspector will announce his name and appointment at the start of the inquiry.

### **6.2 BEFORE THE INQUIRY**

#### **6.2.1 Preparing for the Inquiry**

6.2.1.1 The inspector should retain his letter of appointment so that he can read it out at the opening of the inquiry.

6.2.1.2 If he considers it appropriate the inspector should arrange with the Department for the appointment of a programme officer who will normally be a member of staff from the Roads Service Division involved.

6.2.1.3 All correspondence with the parties involved in the inquiry (including Roads Service) should be made through the programme officer.

6.2.1.4 On receipt of the documents setting out the details of the subject of the inquiry the inspector should study these carefully to obtain full knowledge of the proposal and to ensure that there is no conflict of interest (either personal or professional).

6.2.1.5 In the event of there being a conflict of interest the inspector should notify the Department immediately so that a new inspector can be appointed.

#### **6.2.2 Pre-inquiry meeting**

6.2.2.1 The inspector may convene a pre-inquiry meeting particularly in the case of complex or multiple cases. This normally results in time being saved at the inquiry itself and in the proceedings being made more effective. Such a meeting may be held in appropriate cases, either where the Department considers this desirable or where, in the course of his preparation for the inquiry, the inspector considers such a meeting would be helpful.

6.2.2.2 If possible, the same venue as that for the formal hearing should be used and all of the parties involved should be invited.

6.2.2.3 The pre-inquiry meeting should be quite informal but is useful as it provides an opportunity for agreement to be reached on practical arrangements for such matters as:

- accommodation;
- dates and sitting times;
- likely duration and order of case;
- clarification of issues and areas of uncertainty that require to be addressed;
- matters for agreed statements; and
- arrangements for the preparation, presentation and distribution of documents, and document numbering.

6.2.2.4 When inviting parties to attend the meeting, the programme officer may indicate particular matters which the inspector wishes to be addressed.

6.2.2.5 At the pre-inquiry meeting the inspector should explain that the meeting will not be concerned with the merits (or demerits) of the proposal but rather is an opportunity to explain procedures, clarify issues and to set the date for submission of evidence (which should be at least 4 weeks before the opening of the inquiry).

6.2.2.6 The meeting also enables the inspector to remind parties of the importance of adhering to the inquiry timetables and of their co-operation in all matters to ensure that the inquiry is conducted efficiently and with the minimum possible delay, consistent with the thorough and impartial consideration of the issues. Occasionally more than one such meeting may be required, particularly where it would be beneficial to discuss further technical details or further procedural and programme matters where there is large-scale public interest.

6.2.2.7 The pre-inquiry meeting also provides an opportunity for the inspector and parties to identify potential scope for narrowing the range of issues to be considered at the inquiry, and matters which can be agreed.

6.2.2.8 It is normal to invite only those parties who intend to participate at the inquiry to pre-inquiry meetings. However, such meetings are open to the public and can therefore be attended by non-participants who are nevertheless interested in the proceedings and by the press and media. The inspector will normally accept questions even from those not directly involved, since a few minutes spent explaining or airing some procedural matter at the meeting can save preparation or inquiry time, as well as help avoid potential frustration and acrimony.

6.2.2.9 The inspector may find that several objectors have a common case. In such circumstances he may urge them to get together and appoint a spokesperson (not necessarily a professional) in order to prevent unnecessary repetition during the inquiry.

6.2.2.10 Following the meeting, a note will be circulated to all attendees by the programme officer on behalf of the inspector, or by the inspector himself, confirming the matters agreed, including procedural arrangements, timetable and deadlines for submission of statements and relevant documents.

6.2.2.11 In the event of a major proposal involving numerous witnesses the inspector may wish to have more than one pre-inquiry meeting.

### 6.2.3 Exchange of Evidence

6.2.3.1 The inspector may require the Department, objectors or other interested parties to submit copies of all statements of case/ evidence to him at least 4 weeks before the hearing takes place.

### 6.2.4 Site visit

6.2.4.1 The inspector may carry out a private (unaccompanied) site inspection at any time before, during or after the inquiry. This will allow him to familiarise himself with the area in question. Such a visit to the site is distinct from any formal inspections that may be carried out accompanied by the parties to the inquiry.

## 6.3 DURING THE INQUIRY

### 6.3.1 Arrangements for the Inquiry

6.3.1.1 Inspectors have a full discretion as to the procedure to be followed at the inquiry subject to ensuring that the fundamental requirements of natural justice are met and that any specific provision relevant to the particular inquiry is applied. Where a pre-inquiry meeting has been held, the inspector will have outlined the procedures which will apply and will have set an indicative timetable for the proceedings, and he will outline this again at the start of the inquiry. The inquiry is not a court of law and the inspector will seek to maintain a relatively informal atmosphere, subject to the need to examine all of the evidence thoroughly, in an open and fair manner. Informality of proceedings will be particularly helpful to those who wish to take part but who are not professionally represented.

### 6.3.2 Personal Conduct

6.3.2.1 It is important that the inspector shall, at all times, behave in such a manner that his impartiality and integrity may not be called into question by any of the parties. It is therefore important that the inspector remains separate from the parties to the inquiry not only during the proceedings but also during any breaks in the proceedings.

6.3.2.2 The inspector should for instance arrange to arrive in good time before the start of the proceedings in order to arrange documents on the inspector's table before the arrival of the other parties. He should then return to the room reserved for the inspector until the inquiry is due to open.

6.3.2.3 Throughout the proceedings the inspector will find that the programme officer plays an important and helpful role in all administrative matters, particularly as a liaison between the inspector and the parties involved.

### 6.3.3 **Conduct of the Inquiry**

6.3.3.1 The inspector's report is the formal record of the inquiry and the inspector will normally take his own notes of the proceedings. A verbatim record of the inquiry will, however, be available to assist in his deliberations. Whilst such transcripts can be useful, it is recommended that the inspector take his own notes. Careful note taking, particularly of the questions and answers, is essential.

6.3.3.2 The inspector will normally open the inquiry by reading out his letter of appointment. He will then introduce himself, explain the subject matter of the inquiry, and ask for the names of those who wish to participate and the subject matter of the evidence of each witness (the programme officer will already have noted the names of those who have arrived).

6.3.3.3 Statutory parties and members of the public should attend the opening of the inquiry to find out when they are likely to be called to speak. Where continuous attendance is impossible, the inspector will normally (with the agreement of the principal parties) seek to allocate a time suitable to them, although this may not always be possible.

6.3.3.4 The inspector will outline the procedure he intends to adopt in the running of the inquiry, together with any housekeeping matters e.g. evacuation procedures. He will remind parties of the agreed timetable (where this has been prepared), and clarify the number of inquiry documents. He will also explain that the proceedings are being recorded and all those wishing to speak should use the microphones provided. He should also advise that he will be taking account of all written submissions as well as the evidence presented at the inquiry.

6.3.3.5 He may indicate what appears to him to be the matters and disputed facts on which evidence is required, and will normally state if he has already visited the proposed site(s) of the proposal but that he will consider making a further accompanied visit if any party requests him to do so.

6.3.3.6 Some high profile inquiries attract the interest of the media. The inspector may make seats and a table available for members of the press, but Media / TV should be refused permission to film / photograph during the inquiry as this would be likely to be a distraction. He may, however, permit this prior to the commencement of evidence or during a break.

6.3.3.7 At the start of the inquiry the inspector will also confirm the times he proposes for starting and stopping the inquiry each day together with any breaks. Most inquiries will begin at 10.30 a.m. and continue until about 5.00 p.m. or later if there is good cause. It is normal to have a break for lunch at about 1 p.m. For long inquiries, experience suggests that it can be counter-productive to sit for longer hours, although it may be appropriate to start at 9.30 a.m. where participants can reach the venue conveniently by that time. Similarly, it is normal for a long inquiry not to sit on one day of the week (normally Monday or Friday) to permit parties to prepare for the following week and deal with other urgent business. In exceptional circumstances, an evening session may be agreed to suit persons unable to attend during the day.

6.3.3.8 Any person who has lodged an objection and has not withdrawn that objection (other than individual signatories to a petition) together with any person interested in the proposal and any other person or organisation that the inspector, at his discretion, thinks fit to allow may appear or be represented at the inquiry. In practice anyone who wishes to appear will usually be allowed to do so provided they have something relevant to say which has not already been said. Participants usually include Roads Service, any person who has lodged an objection and has not withdrawn this objection and any other party who may show they have an interest in the matter.

6.3.3.9 The inspector may allow one or more persons to appear on behalf of some or all of any persons having a similar interest in the matter under inquiry.

6.3.3.10 The inspector may permit any party to alter or add to its statement of evidence. Where the inspector is prepared to accept such evidence, he will give other interested parties including Roads Service adequate opportunity to consider any new or altered evidence, adjourning the inquiry for the purpose if necessary.

6.3.3.11 Where a witness proposes to produce any other papers which have not been lodged as a document to accompany his evidence he must show good cause for its late presentation. The inspector may decline to entertain such late information or may be prepared to permit an adjournment of the inquiry to allow the other parties to consider it.

6.3.3.12 If any person entitled to appear at the inquiry does not do so the inspector may proceed at his discretion.

#### **6.3.4 Proceedings of the Inquiry**

6.3.4.1 The inspector has general discretion to determine the most appropriate running order. At the start of proceedings he will outline his proposed running order and ask those attending if this is acceptable. A sample order of proceedings is as follows:

- i. Statement by the Department;
- ii. Questions put to the Department about the contents of its statement;
- iii. Formal objectors or their representatives present their objections;
- iv. Questions put to the objectors about their statements;
- v. Other interested parties given the opportunity to speak at the discretion of the inspector; and
- vi. Closing of the inquiry.

6.3.4.2 Before commencing the inquiry proper the inspector will advise those attending of the procedure for hearing the witnesses. This will be for the witness, when called, to take the seat set aside, speak into the microphone and give their name and interest at the outset before giving their evidence. He will ask if this is acceptable.

6.3.4.3 The inspector will then normally invite the principal Roads Service witness to present his evidence first. The witness may read from the Departmental Statement (or summary, at the discretion of the inspector) or may be led on a question and answer basis. The inspector has discretion to allow or require more than the summary to be read out.

6.3.4.4 Once the principal Roads Service witness has completed his evidence the inspector will ask the objector(s) / supporter(s) if they wish to ask the witness any questions. Each objector / supporter or his representative will, in turn, take the seat set aside, speak into the microphone and give their name and interest at the outset. When all who wish to do so have completed their questions the inspector will excuse the witness. If necessary the inspector may intervene to ensure that questions are confined to the witnesses' evidence rather than presentation of one's own case.

6.3.4.5 A number of official witnesses may make presentations on behalf of Roads Service. As each witness finishes the inspector will allow questions from objector(s) / supporter(s) rather than wait until the full Departmental case has been presented.

6.3.4.6 The inspector will then call on each of the objectors, in turn, to present their statement. In each case, when the witness has completed his statement the inspector will allow Roads Service the opportunity to question each witness. It is not usual to allow objectors to question one another.

6.3.4.7 The inspector will then offer other interested parties the opportunity, to present their statement. In each case, when the witness has completed his statement the inspector will provide an opportunity to question each witness.

6.3.4.8 In presenting their case to the inquiry all parties should focus on the key issues, relate the different elements of their case either for or against the proposal or scheme being considered to identifiable aspects of their case and the case presented by other parties, and unless in exceptional circumstances should restrict their presentations to those issues which have been disclosed as part of the pre-inquiry disclosure framework and discussions. Where a party proposes to call more than one witness, the evidence of each witness should, as far as possible, address discrete topics. Overlapping of topics or duplication of evidence between witnesses on the same team should be avoided, since even fairly small differences in emphasis can confuse the case for the party they represent.

### 6.3.5 Questioning witnesses

6.3.5.1 The right to question witnesses is a fundamental element in inquiry proceedings. The inspector will normally attribute more weight to evidence which has been the subject of questioning than to that which has not although there are instances where evidence presented (e.g. on environmental issues) may not be challenged but where great weight is justified. Some persons may indicate a preference for making a 'statement' (which is not subject to the possibility of questioning) rather than giving evidence, but the inspector may choose not to hear a 'statement' on those terms. Questioning can be particularly effective where evidence is being presented in a misleading overstated manner, but must not be used to waste inquiry time or to intimidate those giving evidence. The parties should aim to assist the inspector rather than seek confrontation with each other. Normally the inspector will allow questioning of each witness by only one representative of each of the principal parties.

6.3.5.2 Questioning may take place on any point in the Departmental Statement and on any relevant matter within the knowledge of the witness. It may be used to test the validity of facts and assumptions so as to expose any defects, to explore how the application of policies would further the objectives they are intended to achieve, and to identify and narrow the issues of dispute. But an inquiry is not a court of law, and it is unlikely to be appropriate in every case to seek the views of a particular witness on all points raised by other parties.

6.3.5.3 Inspectors will intervene in inquiry proceedings wherever they consider questions or the responses of witnesses are unduly lengthy or unhelpful, or in order to protect witnesses from excessive or over-aggressive questioning. This is particularly important in the case of unrepresented or inexperienced witnesses. They will also make full use of their powers to refuse to permit the giving or production of any evidence, questioning of witnesses or the presentation of any other matter which they consider to be irrelevant, repetitious or contrary to the public interest, or which is directed to the merits of government policy. For example, where witnesses are repeating evidence given previously by other witnesses and which has been the subject of questioning the inspector may limit or refuse further questioning.

6.3.5.4 Inspectors may themselves ask relevant questions at any time (but normally before the witness is re-examined) to ensure that all necessary information is available to make a balanced decision. This may be especially important if one side has been unable satisfactorily to test the evidence of opposing witnesses. Witnesses should always answer questions directly, concisely and without prevarication before adding any reservations or qualifications they consider appropriate. A witness who does not know the answer to a question should say so, or refer the questioner to another witness to whom the question should be directed.

6.3.5.5 The inspector may express his understanding of any statement / evidence presented by a witness in order to clarify it for the record. In doing so he should ask the witness if his understanding is correct.

6.3.5.6 Re-examination must not be used to canvass matters not covered in questioning. If this happens, the inspector will allow another opportunity for further questions on any matter so raised. Questions put to witnesses should not be 'leading' questions i.e. they should not be put in such a way as to suggest the desired answer.

### 6.3.6 **Written representations**

6.3.6.1 Written representations may be received from those who have found it impossible to attend the oral hearing.

6.3.6.2 The inspector should request the programme officer to forward any written representations to Roads Service in order that it might provide him with its comments on the matters referred to.

### 6.3.7 **Supplementary or late evidence**

6.3.7.1 The Department does not wish to encourage the production of supplementary statements of case but, where this cannot be avoided, they should be prepared and circulated as soon as possible – preferably before the start of the inquiry.

6.3.7.2 Inspectors have discretion to permit additional evidence, but the last-minute introduction of a material consideration intended to catch an opposing party off-guard is not acceptable. In some circumstances, it may cause the inquiry to be adjourned. Revised statements of case should be avoided, as they lead to confusion. However, original versions may justifiably be updated if new material comes to light or policies are amended after they have been circulated.

6.3.7.3 In addition to the evidence presented to the inquiry, the inspector will take into account all written representations and statements received by him before or during the inquiry. Where practicable the inspector, prior to the start of the inquiry, will circulate such written evidence, otherwise he will ensure that copies are made available to parties during or shortly after the close of the inquiry.

6.3.7.4 The inspector may adjourn the inquiry at any time. Where the inspector has announced the date, time and place of the next sitting, no further notice need be given to any party of the later session.

### 6.3.8 **Public participation**

6.3.8.1 Any member of the public may participate in the inquiry if the matters he wishes to raise are relevant to the Inquiry.

6.3.8.2 The Department encourages participation in public inquiries by interested persons or groups. Inspectors will normally exercise their discretion in favour of hearing persons who wish to be heard (but cannot appear as of right), having regard to fairness, relevance, avoiding unnecessary repetition and the general need to control proceedings. The inspector will normally allow oral evidence to be given, provided that the presentation (before cross-examination) is likely to last no more than 5-10 minutes. It is usually an advantage if groups and individuals with similar cases agree to co-operate by nominating a spokesperson. If a spokesperson is nominated to represent a group of individuals, that spokesperson may at the discretion of the inspector be made a relevant person and in that case, will as a matter of right, be sent copies of all the Roads Service documentation. Repetition does not strengthen the case. Inspectors will discourage repetition and the introduction of irrelevant material.

6.3.8.3 All parties should complete the presentation of their cases at the inquiry.

### 6.3.9 **Conduct**

6.3.9.1 The inspector is responsible for the orderly conduct of the inquiry. Its purpose is to gain information not for participants to score points off one another. It is not a court of law and nobody is on trial so the inspector should try to ensure that the atmosphere is relaxed whilst keeping the business moving.

6.3.9.2 The inspector should ensure that he considers only those matters it is appropriate for him to consider. During the course of the hearing, should anyone raise matters that are outside the remit of the inquiry the inspector should inform him that such matters are outside the remit of the inquiry.

6.3.9.3 Matters outside the remit of the inquiry include government policies which have been through the democratic process and legal challenges which should be addressed through the courts. An example of a legal challenge that might arise is alleged contraventions of human rights.

6.3.9.4 The inspector should resist attempts to obtain postponement of the Inquiry.

6.3.9.5 Although it has not been required to date in any inquiry in respect of roads issues, the inspector has the power to administer oaths and examine witnesses under oath and may accept, in lieu of evidence on oath by any person, a statement in writing by that person.

6.3.9.6 Where, either on his own initiative or at the request of a third party, the inspector decides that a particular person should appear at the inquiry to give evidence or to produce documents, this will also be intimated. This should, however, rarely be necessary, and will normally be justified only where the evidence sought is of direct relevance, and the person sought is the only one who could give that evidence.

6.3.9.7 Subject to the exceptions listed below, the inspector may by notice require any person:

- a) to attend at the time and place set forth in the notice to give evidence or to produce any books or documents in his custody or under his control which relate to any matter in question at the inquiry; or
- b) to furnish, within such reasonable period as is specified in the notice, such information relating to any matter in question at the inquiry as the inspector may think fit, and as the person so required is able to furnish.

6.3.9.8 A person shall not be required, in obedience to such a notice, to attend at any place, which is more than 16 kilometres from the place where he resides unless the necessary expenses are paid or tendered to him.

6.3.9.9 Nothing in the above shall empower the inspector to require any person to produce any book or document, or to answer any question, which he would be entitled, on the ground of privilege or otherwise, to refuse to produce or to answer if the inquiry were a proceeding in a court of law.

6.3.9.10 Any person who: -

- a) refuses or wilfully neglects to attend in obedience to a notice (issued by or on behalf of the inspector), or to give evidence; or

b) wilfully alters, suppresses, conceals, destroys or refuses to produce any book or document which he may be required to produce by any such notice; or

e) refuses or wilfully neglects to furnish any information which he is required to furnish; shall be guilty of an offence and shall be liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding level 2 on the standard scale of fines.

6.3.9.11 If a person causes a disruption at an inquiry so as to prevent the inquiry proceeding, the inspector will ask that person to cease the disruption. If it continues, the inspector may ask the person to leave. If he does not leave and the disruption continues, the inspector may seek the assistance of the police to have the person removed from the inquiry.

6.3.9.12 The inspector may refuse to let that person return or to attend only on such conditions as he may specify.

### 6.3.10 **Site visits**

6.3.10.1 Before or during the inquiry, Roads Service or other interested parties may ask the inspector to make an inspection of the land accompanied by any or all parties to the inquiry. Although normally the objector or Roads Service are the parties entitled to request that a site inspection take place, the inspector will normally make such an inspection if any party requests it. In any event the inspector will, during the inquiry, announce the date and time of his proposed accompanied visit and shall proceed, whether or not any person entitled to accompany him chooses to do so. The inspector will normally be accompanied by representatives of the principal parties and by other persons if he considers it appropriate.

6.3.10.2 A formal site visit is normally arranged through the programme officer on behalf of the inspector. The purpose of the visit to the site is to allow the inspector to familiarise himself with the land in question, its location and surroundings, and any particular physical or geographical features. This will help him appreciate more fully matters raised at the inquiry. Persons accompanying the inspector may point out particular features or aspects referred to in their evidence but the inspector will not discuss the merits of the application with, or take further evidence from, participants during the visit. Such discussion is for the inquiry itself.

6.3.10.3 For a complex proposal or in the case of a large site, the inspector may request Roads Service to provide a suggested itinerary for the accompanied visit and to submit it before the visit is due to take place. The inspector may wish to incorporate additions or alterations to allow him to see other locations referred to at the inquiry.

### 6.3.11 **Concluding the Inquiry**

6.3.11.1 The inspector may allow the main participants to make concluding statements. These can be particularly helpful in complex cases as they can summarise the issues raised.

6.3.11.2 Alternatively, or in addition, the inspector may sum up details of what he has heard during the course of the inquiry and refer to the witnesses who have presented evidence.

6.3.11.3 The inspector will then thank the witnesses and all those who attended the inquiry for their participation.

6.3.11.4 The inspector will then conclude the inquiry.

## 6.4 AFTER THE INQUIRY

### 6.4.1 The Inspector's Report

6.4.1.1 After the inquiry has closed the inspector will consider all of the evidence which has been produced, whether presented in person at the inquiry, in supporting documentation or written representations, or contained in any report to him by an assessor appointed to consider particular aspects of the evidence. He may consider evidence presented after the inquiry is closed, but only after all the relevant parties have been given an opportunity to comment on it either in writing or at a reopened inquiry.

6.4.1.2 Only in exceptional cases should it be necessary to submit additional evidence after the close of the inquiry. Where new evidence is received after the close of an inquiry the inspector will decide whether to take it into consideration. If the inspector proposes to take into consideration new evidence or any new issue (other than issues which are a matter of government policy) not raised at the inquiry he will notify the objectors, Roads Service and all statutory parties to afford them an opportunity of making further representations. Such representations must be made in writing within 3 weeks of the notification. In cases where the inspector proposes to consider new evidence or issues, the notified parties may request that the inquiry be reopened to consider such matters.

6.4.1.3 The inspector will prepare a report which will normally include:-

- i. A cover page stating the nature of the inquiry.
- ii. An introduction explaining the background to the inquiry.
- iii. A short description of the site.
- iv. A synopsis of the Department's case.
- v. Details of questions asked in respect of the Department's case and the answers given.

- vi. A synopsis of the supporters' case.
- vii. Details of questions asked in respect of the supporters' case and the answers given.
- viii. A synopsis of the objectors' case.
- ix. Details of questions asked by the Department in respect of the objectors' case and the answers given.
- x. The inspector's comments (if any).
- xi. The inspector's considerations.
- xii. The inspector's recommendations.
- xiii. Acknowledgements e.g. the programme officer and anyone who contributed to the organisation and smooth running of the inquiry.
- xiv. Annexes – list those who made an appearance at the inquiry and list the documents submitted to the inspector.

6.4.1.4 The report is not a verbatim record of the proceedings but rather a resume of the evidence presented.

6.4.1.5 The inquiry is not a court hearing and, though hearsay evidence may be allowed, care should be exercised as to what weight is given to such uncorroborated evidence in the final report.

6.4.1.6 In preparing his report the inspector will see the importance of making his own careful notes during the course of the inquiry even though he will also have access to the verbatim record of the inquiry.

6.4.1.7 The Department would normally expect the completed report to be submitted to it within a period which is 3 times the duration of the inquiry, measured from the end of the inquiry, subject to a maximum period of 6 weeks. Further time may be required, however, if the case is particularly complex or if other matters hinder progress.

6.4.1.8 Any report by an assessor will be attached to the report for the Department. The inspector will state how far he agrees with the content or, if he disagrees with the assessor on any point, his reasons for doing so.

## 7 Appendices

### 7.1 Appendix 1

#### **SCHEDULE A1 TO THE INTERPRETATION ACT (NORTHERN IRELAND) 1954 (c. 33 (N.I.)) AS AMENDED BY ARTICLE 130(2) OF THE ROADS (NORTHERN IRELAND) ORDER 1993**

##### *“Introductory*

1. In this Schedule-  
"the inquiry" means any inquiry or investigation in relation to which, by virtue of section 23 of this Act, the provisions of this Schedule apply;  
"the Department" means the Minister or Northern Ireland department causing the inquiry to be held.

##### *Appointment of person to hold inquiry*

2. The Department shall appoint a person to hold the inquiry and to report thereon to the Department.

##### *Notification of time and place of inquiry*

3. Notification shall be sent to any persons appearing to the Department or the person appointed to hold the inquiry to be interested of the time when, and the place where, the inquiry is to be held.

##### *Powers to require persons to give evidence etc*

4. (1) Subject to sub-paragraphs (2) and (3), the person appointed to hold the inquiry may by notice require any person-
  - (a) to attend at the time and place set forth in the notice to give evidence or to produce any books or documents in his custody or under his control which relate to any matter in question at the inquiry; or
  - (b) to furnish, within such reasonable period as is specified in the notice, such information relating to any matter in question at the inquiry as the person appointed to hold the inquiry may think fit, and as the person so required is able to furnish.

(2) A person shall not to be required, in obedience to such a notice, to attend at any place which is more than 16 kilometres from the place where he resides unless the necessary expenses are paid or tendered to him.

(3) Nothing in this paragraph shall empower the person appointed to hold the inquiry to require any person to produce any book or document, or to answer any question, which he would be entitled, on the ground of privilege or otherwise, to refuse to produce or to answer if the inquiry were a proceeding in a court of law.

*Oaths and statements*

5. The person appointed to hold the inquiry may administer oaths and examine witnesses on oath, and may accept, in lieu of evidence on oath by any person, a statement in writing by that person.

*Offences*

6. Any person who-
  - (a) refuses or wilfully neglects to attend in obedience to a notice under paragraph 4, or to give evidence; or
  - (b) wilfully alters, suppresses, conceals or destroys or refuses to produce any book or document which he may be required to produce by any such notice; or
  - (c) refuses or deliberately neglects to furnish any information which he is required to furnish under paragraph 4(1)(b);shall be guilty of an offence and shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding level 2 on the standard scale.

*Expenses*

7. (1) The expenses incurred by the Department in relation to the inquiry (including such sum as the Department may, with the approval of the Department of Finance and Personnel, determine in respect of the services of any officer engaged in the inquiry) shall be paid by such of the parties to the inquiry in such proportions as the Department may order, or may, if the Department so determines, be wholly or partly defrayed by the Department.  
  
(2) The Department may make orders as to the expenses incurred by the parties appearing at the inquiry and as to the parties by whom such expenses shall be paid.  
  
(3) Any order made by the Department under sub-paragraph (1) or (2) may, on the application of any party to the inquiry, be made a rule of the High Court."

7.2 **Appendix 2**

**DEPARTMENT FOR REGIONAL DEVELOPMENT  
ROADS (NORTHERN IRELAND) ORDER 1993**  
(Description of Scheme and/or Department's Proposals)

.....  
.....

In accordance with the provisions of Article 130 of and Schedule 8 to the Roads (Northern Ireland) Order 1993 as amended by the Inquiries Act 2005 the Department for Regional Development hereby appoints Mr ..... to hold Inquiries into the Department's proposals to make orders under Article(s) ..... of the said Order to (description and location of proposals)

.....  
.....

(Signed) .....

A senior officer of the Department/  
Authorised Officer\*

..... 20.....

\*Delete as appropriate

### 7.3 Appendix 3

#### **RECORDED DELIVERY**

Mr (Inspector's name)

(Address)

Dear Sir

#### **DESCRIPTION OF SCHEME AND/OR DEPARTMENT'S PROPOSALS**

I enclose a copy of the formal document appointing you to hold inquiries into the above proposal.

Your terms of reference are to hold the inquiry on ..... (day).....(date) (month) 20.. in ..... (venue), commencing at .....am and to report thereon to the Department.

Public notice is being given and notification is being sent to each objector. In addition to the objectors all persons interested in the [lands] [proposals] and such other persons as you may in your discretion think fit to allow may attend and be heard.

You should open the inquiry by advising those present that you have been appointed by the Department for Regional Development to act as inspector for the purpose of holding inquiries into the Department's proposals to ....., that after the inquiry you are to report thereon and that following consideration by the Department the report will be placed in the public domain. You should also read out the attached Notice of the inquiry which will be published in ..... (name.-.newspapers).....

I enclose a copy of ... (detail documents, maps, etc) ...together with copies of correspondence with objectors (and consultees).

The fees payable for conducting the inquiry are as follows: -

a) Daily Rate (Notional 7 Hrs 24 Mins) £

A day's fee will be paid for each day necessarily spent away from home. This day fee covers travelling, site visits, sitting days at the inquiry, pre-inquiry and other meetings and any other preparation work while attending the inquiry. One day's fee is the maximum amount that can be claimed for a day and no additional fee will be paid for long sittings etc.

b) Hourly Rate £

Time used at home for preparation for the inquiry or writing the report will be paid at the hourly rate.

c) Mileage Allowance: p per mile.

d) Subsistence Allowance: more than 5 hours away from home £

More than 10 hours away from home £

Please note that you are responsible for making your own arrangements for the payment of tax, National Insurance and VAT.

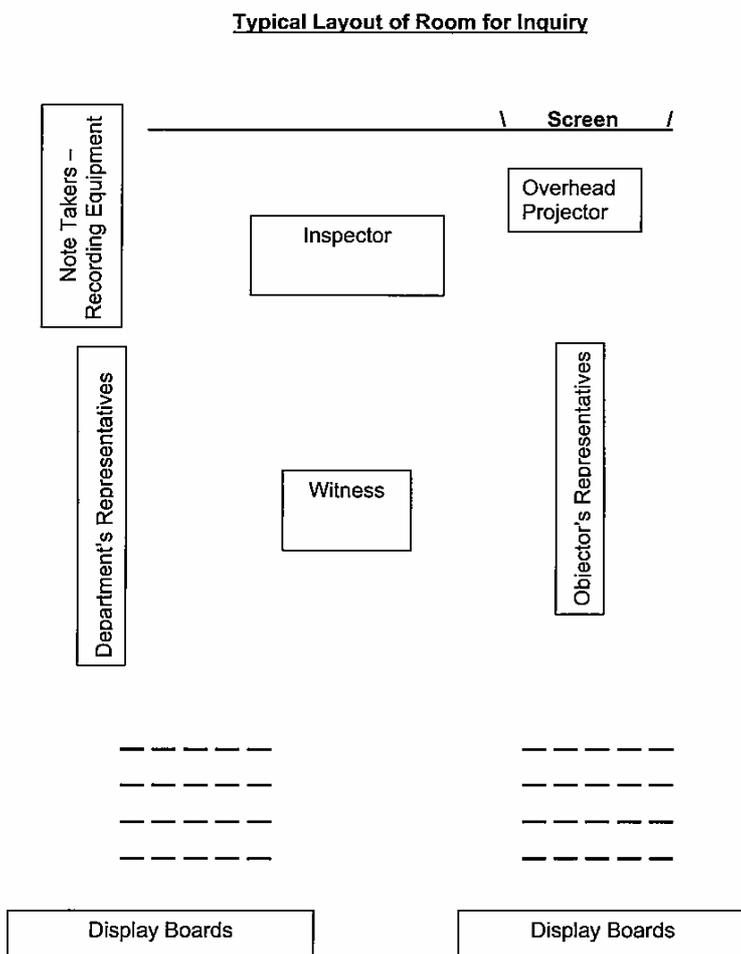
Yours faithfully

(Signed)

Authorised Officer

## 7.4 Appendix 4

### 7.4.1 Typical Layout of Room for Inquiry



7.5 Appendix 5

**DEPARTMENT FOR REGIONAL DEVELOPMENT  
ROADS (NORTHERN IRELAND) ORDER 1993 AS AMENDED BY THE ROADS  
(AMENDMENT) (NI) ORDER 2004  
P U B L I C   I N Q U I R Y**

(Description of Scheme and/or Department's Proposals)

The Department for Regional Development hereby gives notice that, under the provisions of the above-mentioned Order, it has appointed Mr ..... to hold inquiries into the Department's proposal(s) to make orders under Article(s) ..... of the said Order for the purpose of

.....  
.....  
.....

The inquiries will be held in ..... commencing at ..... am on ..... (day) .....(date) .....(month) 20...

All persons interested in the [lands] [proposal] and such other persons as the inspector in his discretion thinks fit to allow, may attend and be heard at the time and place stated. Maps may be inspected and further information relating to the Department's proposal(s) may be obtained at all reasonable hours at the office of the Divisional Manager, Roads Service .....

(Signed)  
Authorised Officer

**8 Roads Service Policy & Procedure Guide: RSPPG\_S027**

**Title: PUBLIC INQUIRIES – Land Acquisition and Traffic Management**

**Document History**

Version	Date	Author	Authorised by Document Control Panel Members Name : Signature
1	16/6/00	R Newell	R Wilson
2	08/08/04	M Bradley	R Newell
3	26/3/07	O Hamill	R Newell

**Overall Reasons For This Version**

Version	Reasons
1	First issue of RSPPG
2	To provide advice to participants in public inquiries in accord with legal advice
3	Updating information to take account of the Inquiries Act 2005 (c. 12) and to simplify the procedural guidance to staff.

**Revision Details**

Version	Amendments
1	All of document
2	All of document
3	All of document