

Terms of Reference of the Hen Harrier Programme Appeals Commissioner.

The Appeals Commissioner is appointed by the Steering Group for the Hen Harrier Project to decide on appeals made by Programme participants on decisions made by the Hen Harrier Project team.

Scope:

The Appeals Commissioner will consider appeals from participants on the issue of habitat assessments made by the Hen Harrier Project team (or agents employed by them to carry out such assessments). The Commissioner will also consider appeals in relation to decisions made by the Hen Harrier Project team in respect of the completion/ delivery of planned supporting actions.

The Appeals Commissioner will not consider issues connected with the governance of the Hen Harrier Project or issues connected with the applications and approvals processes. The Commissioner will not consider issues arising from Hen Harrier monitoring or eligibility for the Hen Harrier Payment.

Appointment:

The Appeals Commissioner is appointed by the Steering Group for a period of 1 year.

Authority:

The decision of the Appeals Commissioner on matters within his remit will be binding on the Hen Harrier Project team. The appellant may however further appeal a decision of the Commissioner to the office of the Ombudsman or to the Courts.

The Commissioner may;

- Overturn the original decision
- Partially overturn the original decision
- Reject the appeal and uphold the original decision

Consideration of Appeals

The Appeals Commissioner will decide on an appeal based on the information supplied by the appellant in support of their appeal and by the Hen Harrier Project team in respect of their decision. All decisions must be based on the Terms and Conditions of the Hen Harrier Programme with regard to the instructions and scorecards produced for assessing the habitat values.

The Appeals Commissioner can decide to hold an oral hearing or a site visit if they believe that this could contribute to the decision-making process. The Hen Harrier Project team will assist with arrangements for oral hearings and site visits.

When considering an appeal the Appeals Commissioner shall:

- Examine all documents submitted by the party making the appeal;
- Examine any other written evidence;

- Consider any information produced at an oral hearing or site visit.

If the Appeals Commissioner considers it appropriate, they may seek guidance from other parties with relevant information or obtain legal or other independent professional advice.

Timeline for Consideration of Appeals

An appellant must make an appeal within 2 months of being informed by the Hen Harrier Project team of the decision. The Appeals Commissioner will decide on cases within 3 months of receipt of a valid appeal. This can be extended to 6 months with the consent of the appellant.

Deliverables

The Appeals Commissioner will deliver a written decision on the appeal to the appellant or their representative and to the Hen Harrier Project Manager.

The Commissioner will make an annual report to the Steering Group that oversees the Hen Harrier Project by April 30th each year. The report will deal with the number of cases considered, the decisions made and the need for any changes to the Terms and Conditions for the Hen Harrier Programme and the operating procedures for the habitat assessment process.

Resources and Budget

The Appeals Commissioner will be paid €377 for each appeal where an oral hearing or a site visit are required, this rate is inclusive of travel and subsistence. Appeals dealt with by correspondence will be paid at a rate of €100 each. The payment to the Appeals Commissioner is capped at €20,000 per annum. The Appeals Commissioner will be paid a daily rate of €377 for attendance at training and for the production of an annual report. The Steering Group will review the issue of costs on an annual basis.

The Hen Harrier Project team will provide the Appeals Commissioner with adequate training to familiarise him with the operation of the Hen Harrier Programme.

The Hen Harrier Project Team will assist the Appeals Commissioner in organising venues required for any oral hearings. The cost of administering the appeals procedure shall be met from the Local Actions Fund.

Review

The Terms of Reference for the Commissioner can be reviewed annually by the Steering Group.