

GOOD PRACTICE GUIDANCE NOTE

Planning Committee Reforms

A guide to implementing the National Scheme of Delegation

Planning Officers Society

POS is the single credible voice for public sector planners, pursuing good quality and effective planning practice. The Society's aim is to ensure that planning makes a major contribution to achieving sustainable development in ways that are fair and equitable and achieve the social, economic and environmental aspirations of the community.

We operate in three main ways:

- As a support network for planners in the public sector
- As promoters of best practice in planning
- As a think tank and lobbying organisation for excellence in planning practice

Where we can, we will work across the sector to craft proposals that have widespread support from the people who operate the planning system at the coalface: landowners, developers, agents, legal, local authorities and politicians. We will be both radical and practical as we look for solutions to tangible problems that will make a real difference to crucial areas. Our objective is to improve the planning system to enable it to deliver its key aim of sustainable development. It is within this context that we have published this guidance so our members can improve what they do.

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1 Introduction

- 1.1 Government is introducing a National Scheme of Delegation (NSD) via the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026.¹ LPAs are expected to have the new arrangements in place for 31 October 2026. Decisions taken on or after that date must be taken in line with the Regulations and if not, could be considered by the Courts to have been unlawfully taken. LPAs need to commence the work of changing their constitutions as soon as possible.
- 1.2 This Good Practice Guidance Note has been written to help LPAs with implementing the NSD. The Note contains 6 appendices setting out the documents you will need:
- A. Planning Scheme of Delegation – two templates that can be slotted into a Council’s Constitution and its Management Framework to ensure that it is clear who and under what circumstances planning decisions can be made.
 - B. Vexatious Customer Procedure – a model procedure to deal with planning related complaints that are unreasonably persistent, malicious and/or vexatious or flagrantly in breach of rules or procedures.
 - C. Planning Committee Procedures – a model set of procedures and rules designed to ensure that planning committees operate in a way that minimises the risk of legal challenge or complaint to the Ombudsman.
 - D. Planning Code of Conduct – a model Code, based on the Local Government Association’s advice, which is intended to reinforce Councillors’ community engagement role whilst maintaining good standards of probity.
 - E. Planning Committee Report – a template for a report to planning committee which is designed to produce better, shorter and more legally robust planning committee reports and to disincentivise fraudulent behaviour with representations.
 - F. Planning Committee Update Report – a template for an update report to planning committee which is designed to ensure that late material is only reported where it is necessary and then in an appropriate and consistent way
- 1.3 The templates have [highlighted text] for terms such as Chief Planning Officer, Planning Committee, Planning Service etc which will need to be customised for each LPA before implementation depending on the terms that they use.

Implementation

- 1.4 Documents A to D are designed to be slotted into your Council’s Constitution replacing what is currently there. Documents C and D should be straightforward, replacing (where considered necessary) similar self-contained documents in sections usually titled Rules of Procedure and Codes and Protocols respectively. However, sometimes the committee procedures may be contained within the document that has the terms of reference for the planning committee.
- 1.5 Document B is likely to be a new document and is generally placed in the Codes and Protocols section after the Planning Code of Conduct.

¹ Links to the [Draft Regulations](#) and the [Final Guidance](#)

- 1.6 Identifying the parts in the Constitution covered by the new Planning Scheme of Delegation can be a bit more of a challenge. Generally there will be a section in the Constitution headed Responsibility for Functions and that will contain most of what you are looking for. Matters may be separately entered for Full Council, Executive and Committee functions. A search for 'planning' within this document should locate what you are looking for. It is recommended that you liaise with the Borough Solicitor on this work so that it is done correctly.
- 1.7 Each Council will have its own procedures for changing its Constitution, but the final decision to adopt it is one for Full Council, unless that has been delegated to an officer, which is sometimes the case for changes that are as a result of statutory requirements.
- 1.8 The rest of this note will provide a summary of the details and features of these six documents.

2 Planning Scheme Of Delegation

- 2.1 This template is for a local Scheme of Delegation in the context of implementing the NSD for planning authority functions and takes the opportunity to set out the delegation of all planning matters so that it is clear who, and under what circumstances they, should make decisions. The Scheme is in two parts: the elements that need to be within a Council's Constitution and those that should sit outside it. Those elements that are outside the Constitution are administrative in nature rather than constitutional.

CONSTITUTIONAL ELEMENTS

- 2.2 This deals with all planning functions and sets out what needs to go to Full Council, the Executive and Planning Committee. It is governed primarily by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026.

Delegation Of Planning Functions

- 2.3 It is best practice to delegate all matters to officers and then to carve out the exceptions that are for Council, the Executive and committees to determine. It is therefore necessary to clearly identify:
- the officer(s) to whom powers and functions are delegated; and
 - the powers and functions that are delegated.
- 2.4 Councils vary in how they do this, and POS considers that this is an area of constitution drafting that would benefit from fresh consideration and a degree of standardisation.

Officers

- 2.5 Councils differ in how they define the officers to whom powers are delegated. Two approaches are generally adopted in Constitutions:
1. Powers and functions are delegated to the CEO or chief officers within the Constitution, who then sub-delegate (outside of the Constitution) as appropriate to other officers; or

2. Specific powers and functions are delegated to specific senior officers (Corporate Directors, Operational Directors, Heads of Service etc) within the Constitution.
- 2.6 The problem with the second approach (which is probably more common as it is derived from following the way things are set out in the 2000 Regulations) is that updating it involves changing the Constitution rather than simply revising an internal scheme of delegation (often called a Scheme of Management). POS therefore recommends delegation to a single senior officer and, with respect to planning, it should be to the Chief Planning Officer or their equivalent. The Scheme we have drafted makes provision for substitutes and sub-delegation outside of the Constitution.

Powers And Functions

- 2.7 The way that most Constitutions are drafted is that the 2000 Regulations defines the matters that are executive functions and therefore the responsibility of a cabinet or a mayor, depending on the council's executive model. All other functions, including most of the functions of the LPA, are the responsibility of Full Council, who then (via the Constitution) delegates them to a committee or an officer.
- 2.8 It is common to see Constitutions that identify specific powers and functions (such as the power to determine a planning application or serve an enforcement notice) and delegate each to one or more specified officers. The problem with this very detailed approach is that it is easy to miss an obscure power or function and when new powers or functions are created by Parliament, the Constitution must be updated before they can be discharged by officers, even if they are clearly minor matters that were expected to be dealt with by officers. Similarly, changes to officers, their titles etc (eg when services are restructured) can also be missed and result in the person who needs to exercise the power not being the one specified in the Constitution.
- 2.9 The safest and most efficient approach is to simply state that all planning powers and functions are delegated to the Chief Planning Officer or their equivalent and then specify the circumstances when they are not. This approach is set out in Appendix A and is the one that POS strongly recommends.
- 2.10 Legal and democratic services might express concerns that this is too wide, but it is worth pointing out that exercising powers that might commit the Council to unplanned expenditure will be curtailed by other more general provisions in constitutions that ensure that officers always operate within a clear policy framework and that expenditure is budgeted or otherwise authorised.

Triage System

- 2.11 The way that the 2026 Regulations work is that planning applications are grouped into 2 schedules:
- Those in Schedule 1 must be determined under delegated powers and cannot go to planning committee.
 - Those in Schedule 2 should also be determined under delegated powers unless the nominated member and officer consider that it needs to go to planning committee.
- 2.12 In making the decision the nominated member and officer must apply the criteria in Regulation 5(2) known as the Gateway Test.

- 2.13 MHCLG has recognised that this will result in the nominated member and officer potentially dealing with a high number of decisions so have made provision for a triage process to be put in place so that they only get to see what they need to. POS recommends that the triage process is applied to categories of application types in Schedule 2 as part of the drafting of the new constitution and in the context of a particular application via the use of delegated powers. It also applies to Own-Interest Application. This is all set out in Appendix A.

Own-Interest Application

- 2.14 These are applications made by officers, members or the Council and the Council itself. The Regulations set out procedures for dealing with them. Essentially these will go to planning committee where they need to for potential bias or transparency reasons. This is also set out in Appendix A.

Sub Delegation Of Functions

- 2.15 The 2026 Regulations require, under Regulation 3, LPAs to nominate the members and officers who will exercise the various delegations provided for under the Regulations. Other delegations will also need to be set out. We have set out provisions for this in Appendix A which enables the Chief Planning Officer to produce a Scheme of Management that sets this out, but crucially to do so outside of the Constitution so that it can be done efficiently and kept up to date as circumstances dictate. We also recommend that this document could usefully have advice on how these delegations should be used and we set this out.

Lobbying

- 2.16 The implementation of the NSD could result in both the nominated member and officers being put under pressure through lobbying to use their powers in a particular way. Such lobbying will not be a material consideration in these decisions and therefore serves no purpose and should be discouraged. Unfortunately MHCLG has not addressed this in the regulations or the guidance, so LPAs will need to cover it in their constitutions.
- 2.17 The Constitution therefore needs to state that the Nominated Member or the Nominated Officer, or any other officer with delegated powers, when exercising their powers under Regulations 4, 5 or 6, should not be lobbied or otherwise contacted by any person or organisation, including by members or officers of the relevant authority, to persuade them to use their power in a particular way and require that any such lobbying is reported to the Monitoring Officer to deal with. The Constitution should require the Monitoring Officer to develop and publish procedures to deal with these and other planning related complaints that are unreasonably persistent, malicious and/or vexatious or are otherwise flagrantly in breach of rules or procedures. A model procedure is included within Appendix B.

Planning Committee Terms Of Reference

- 2.18 This specifies the size, purpose and powers of the Planning Committee.
- The size is restricted by the 2026 Regulations to a maximum of 13 members.
 - Its main purpose is to determine planning applications.
 - Its powers cover pre-application presentations, determining applications and any other planning matters referred by the Chief Planning Officer.

- 2.19 The final provision (a power to consider and determine any other planning matter referred to it by the Chief Planning Officer) is important to include because without it matters, other than planning applications covered by the 2026 Regulations, would technically need to be reported to Full Council because that is where the delegation comes from.
- 2.20 The Regulations do allow there to be more than one planning committee in an area. Our strong advice is to avoid this. Even though Councils will generally be larger, with populations of around 500,000, the result of the NSD changes is that far fewer applications will be reported to committee; only the important strategic ones that raise particular issues. A single planning committee will be sufficient for this workload.
- 2.21 At the end of the Planning Scheme of Delegation is a flow diagram showing how it all works, both the NSD and the delegations in the Constitution.

ADMINISTRATIVE ELEMENTS

- 2.22 The Regulations allow a degree of flexibility in implementing their requirements; however it is important that this is done correctly and systematically. The Planning Scheme of Delegation deals with the matters that should be in the Council's Constitution, this document (the Planning Scheme of Management) deals with the administrative elements that should sit outside the Constitution. This enables them to be updated more efficiently.

Identification Of Members And Officers

- 2.23 The Constitution should require the Chief Planning Officer to clearly set out who can use the delegated powers conferred by the Regulations. The individuals that are identified are:
- the Nominated Member(s) and any substitutes; and
 - the Nominated Officer(s) and any substitutes.
- 2.24 The Regulations provide for different officers to be nominated for different purposes with respect to the determination of planning applications. The Planning Scheme of Delegation in Appendix A enables the Chief Planning Officer to determine other planning matters. Therefore a scheme of sub-delegation is set out for:
- the determination of planning applications by officers; and
 - the determination of other planning matters by officers.
- 2.25 These are presented in tabular form to ensure that the scheme is clear.

Advice On Using Delegated Powers

- 2.26 The document also contains advice on the use of delegated powers by both members and officers in the following scenarios:
- Determining Schedule 1 and 2 planning applications;
 - Operating the triage system;
 - Determining Own-Interest Application; and
 - Dealing with other planning matters.
- 2.27 This advice is designed to ensure that the risk of challenge by Judicial Review or complaint to the Ombudsman is minimised. The way that inappropriate lobbying should be dealt with is also covered.

Transparency and Reporting

2.28 MHCLG's guidance on implementing the NSD states:

As a minimum, the local planning authority should keep a record of the cases the nominated officer and nominated member have considered for referral to committee, the outcome of their consideration and the reasons for their decision. They should report this to the planning committee on a regular basis and make it available on their website.

2.29 POS considers that the goal of transparency can be delivered by always stating the reason an application is either dealt with under delegated powers or reported to committee within the respective report, as set out in our advice in Appendix A. It could be argued that this discharges the first limb of the above advice, however Councils will need to take their own advice on that and might decide that a separately published list is also needed. POS recommends that the format of such a list should be as follows:

The following application types must be dealt with under delegated powers:

- Schedule 1 Applications
- Schedule 2 Applications that are triaged by the constitution
- Schedule 2 Applications that are triaged by officers
- Own-Interest Applications that are triaged by officers

The reasons why these applications are dealt with under delegated powers are set out in the respective officer reports, which are published on the Council's website.

The following applications were dealt with under delegated powers because the Nominated Member and Nominated Officer considered whether referral to committee was necessary and decided as follows:

Schedule 2 Applications where the Gateway Test is not engaged because it did not raise any issues of economic, social or environmental significance to the local area, nor raise any significant planning matters having regard to the development plan and any other material considerations:

- [details of the application]

Own-Interest Applications where it is not necessary because it has not been advertised under Article 15 of the GMPO as a departure and nor is there considered to be a material planning objection:

- [details of the application]

Again, the reasons why the above listed applications were dealt with under delegated powers are set out in the respective officer reports, which are published on the Council's website.

Those Schedule 2 and Own-Interest Applications that the Nominated Member and Nominated Officer decided that it was necessary to report to Committee had the reasons why set out in the respective committee reports. Members have already seen these reports, and they are published on the Council's website.

2.30 It is hoped that this format will minimise the administrative task of preparing the list.

- 2.31 With respect to reporting to Planning Committee on a regular basis, POS is disappointed that MHCLG has not followed our advice that this guidance confuses the role of Planning Committee in these matters: it is not there to police the use of delegated powers, that is a matter for Full Council as it is from there that the powers are delegated, both to officers and to planning committee.
- 2.32 Given the expectation in the guidance, POS would point out that it is good practice to only report matters to the meeting of Planning Committee where there is a need for a decision. Other matters (such as appeal decisions) are either sent direct to planning committee members for information or are part of planning committee training events. POS considers that this is a “for information” item as no decision is needed.

Conclusions

- 2.33 It is hoped that this advice and the recommended schemes of delegation and management will assist LPAs in ensuring that their planning decision making processes are sound and well run.

3 Vexatious Customer Procedure

- 3.1 This procedure is designed to deal with lobbying, representations, complaints and similar submissions to a planning service where the complainant is unreasonably persistent, malicious and/or vexatious or flagrantly in breach of rules or procedures.
- 3.2 Planning is seeing a surge in vexatious representations using AI and the NSD is likely to result in officers and members being put under pressure to put planning applications to committee. LPAs need to respond and balance the rights of the public to correspond with the Council with their responsibility to do so in a way that is proportionate and does not place heavy demands on staff time and Council’s limited resources.
- 3.3 The procedure has three stages:
1. A warning, containing an explanation of what they have done wrong, advice not to repeat it, with the consequences set out if they ignore the advice.
 2. A final warning, if repeated.
 3. The sanctions are put in place.
- 3.4 The sanctions are likely to be a requirement to correspond in future through an approved (by the LPA) professional or via the person’s ward member. Other sanctions are possible. They should be reviewed after 12 months and the decision based on evidence of reformed behaviour. There is a right of appeal.

Other Measures

- 3.5 In addition to the above sanctions, LPAs need to consider what else they should do to discourage vexatious or fraudulent representations.

- 3.6 It is legitimate for an LPA to require a representation to be from a person with an address within the council's area, so that they can then check it against the electoral role address database to deal with fraud. However this could be improved and automated by the LPA requiring that any electronic submission is made via the online Public Access system and not via email. That system could then be linked to an address database that the customer must register through so that the submission is linked to a real address. It may also be possible to use 'proof of identity' techniques to make this even more secure.
- 3.7 Customers could be encouraged to submit representations only through the Public Access system. Any customers who claims to not have digital access could be directed to the planning help desk in the Council's offices and assisted to make their representation electronically.
- 3.8 Generally Public Access representations are typed into a text box. Such boxes can be configured so that there is a limited number of characters/words. POS would suggest that the 1,500-word limit used in appeal submission summaries might be an appropriate limit. It may also be possible to switch off the cut & paste facility so that the representation must be typed in. These restrictions could be deployed to dissuade customers from submitting excessively long, AI generated submissions.
- 3.9 Where customers use AI to generate or assist with representations, it is reasonable to require that this is declared and that the person endorses the accuracy of the submission. PINS are requiring this when they deal with submissions for planning appeals. The undeclared use of AI where it resulted in inaccurate submissions has been found to amount to unreasonable behaviour in the appeal context. LPAs need to consider adopting a similar approach to representations on planning applications and in other areas like enforcement complaints or representations on policy matters.
- 3.10 It will be important that when implementing these and other measures that the communications from the planning service explains both the expectation of acceptable behaviour, the measures in place to manage potential abuses and the fact that there can be consequences if these things are ignored. The tone of these communications will be important, and the core message for the public must be that with the right to comment on planning matters comes a responsibility to respect the planning service and not treat it in a way that unnecessarily increases its workload and thereby wastes Council Taxpayers' money.

4 Planning Committee Procedures

- 4.1 In the context of the Government's implementation of a NSD, planning committees will now almost exclusively deal with large strategic applications. POS has reviewed planning committee procedures to make sure that they are fit for purpose, particularly around presenting such applications in the pre-application stage, dealing with recommendations efficiently and effectively with clear delegations, and setting out clear procedures for when members are minded to go against the officer recommendation.
- 4.2 Planning committees are quasi-judicial decision-making processes where often controversial decisions are made in the teeth of vociferous opposition. It is vital that the committee operates in a way that minimises the risk of challenge by Judicial Review or complaint to the Ombudsman.

- 4.3 There are a range of procedural measures that need to be codified, and the areas covered in these Procedures are as follows:
- Format of Committee agenda and procedures
 - Format of Committee recommendations
 - Public speaking rules
 - Other procedural issues
 - Late material and other updates
 - Lobbying
 - Withdrawn agenda items
 - Attendance during Committee
 - Duration of meetings
 - Voting procedures
 - Committee minutes
 - Site visit procedures
 - Technical Briefings
- 4.4 Draft wording is included within Appendix C. The main provisions and the reasons for them are explained below.

Format Of Committee Agenda And Procedures

- 4.5 With the potential for strategic applications in the pre-application stage being reported to Planning Committee², the agenda should be split into three parts:
1. Development presentations
 2. Applications for decision
 3. Other planning matters
- 4.6 The running order for considering each of these items is also set out so that the Chair can deal with any issues that may arise. We advise that presentations should be first for two reasons:
1. They are more predictable to judge how long they will take thereby allowing agenda management to be more effective; and
 2. It is better to get members to deal with these first as they have not yet been subject to public consultation and are likely to be less controversial.

Format Of Committee Recommendations

- 4.7 It is recommended that reports should not set out conditions, informatives and obligations in full but contain a summary of them. Experience has shown that this enables members to absorb the information that they need to understand the recommendation more efficiently: 2-3 pages of summarised conditions are easier to absorb than 20-30 pages of full legalistic text. The full wording should be available at the committee in a draft decision notice in case this is needed.
- 4.8 This approach requires it to be clear that officers have delegated powers to deal with finalising the wording of planning decisions, including when committee amends or changes recommendations. This is important in the context of the new written representation appeal procedures where an appeal statement cannot be submitted. By having delegated powers to finalise the wording, the delegated report can act as that statement.

² POS [Good Practice Guidance Note: Strategic Applications](#)

4.9 A clear delegation is also given to officers to deal with changes after the committee decision, such as altering detailed wording, accepting minor changes to the development or considering policy or legislative changes. These are on the basis that the change(s) could not reasonably be regarded as deviating from the overall principle of the decision reached by the Committee, nor that they could reasonably have led to a different decision having been reached by the Committee.

4.10 A model template for planning committee reports is in Appendix E.

Public Speaking Rules

4.11 A set of public speaking rules are set out. They are clear and detailed so that the Chair can deal with any issues that may arise.

Other Procedural Issues

4.12 The planning committee's role as a quasi-judicial decision-making meeting governed by law, particularly s38(6) of the 2004 Act, is set out in order to reduce the risk of non-planning considerations being raised.

Late Material And Other Updates

4.13 How material received after the close of the agenda is reported to committee is important to set out clearly with rules and key deadlines included.

4.14 A model template for update reports is in Appendix F.

Lobbying

4.15 The rules around lobbying committee members are covered.

Withdrawn Agenda Items

4.16 It is important to make it clear that the items are reported to committee by the Chief Planning Officer and if there is a need to withdraw a report from an agenda (such as where new information comes to light that needs to be considered or there has been a significant procedural error) it is wholly within the Chief Planning Officer's discretion to do that.

Attendance During Committee

4.17 The need for all committee members to be present during the consideration of an item is set out, including where consideration of an item is split over two meetings because of a deferral. Only members who have been fully present at both meetings will be able to vote, unless that results in the Committee becoming inquorate.

Duration Of Meetings

4.18 Planning Committees that last all night are not conducive to sound decision making. A guillotine procedure is set out with the unconsidered item(s) on the agenda being automatically reverted to determination under delegated powers.

Voting Procedures

- 4.19 The voting convention in Planning Committee should be that the recommendation is voted on first, rather than having motions moved and seconded. The reason for this is if the committee is considering going against the officer recommendation, this triggers a critical set of procedures that are designed to protect the Council's interests. As will be explained below, there are circumstances where this might result in the item being deferred. Therefore, it is important that the planning officer advising the committee knows that the committee wants to go down this road; hence the committee should decide first whether they agree the recommendation in the report. The officer recommendation can be amended (eg, adding, varying or deleting a condition, informative or obligation) in the usual way, but not changed (eg to refusal).
- 4.20 In all cases where the committee departs from the recommendation they must receive and consider advice from the planning officer advising the committee on what form a new resolution should take. Where the officer considers that they are unable to give that advice in the meeting, further consideration of the matter will be suspended, and the agenda item will be deferred so that a report can come to the next available Committee setting out the advice. If legal advice is required, it may need to be on the private business part of the agenda. The reason for this approach is to avoid the situation where officers must advise in the meeting, with the applicant present, that grounds are weak or not defensible at appeal.
- 4.21 The legal requirement to accurately record reasons for decisions is also set out. This ensures that decisions that go against the recommendation in the report are soundly made, properly recorded and not liable to judicial review. It is important that where a decision is against the recommendation, the Chief Planning Officer is given delegated powers to finalise the wording.
- 4.22 Similar procedures are set out for decisions that would constitute a Departure from the Development Plan or where a decision is deferred for whatever reason.

Committee Minutes

- 4.23 What needs to be included in the minutes is set out. The purpose of minutes is to capture the decisions made. They do not have to capture the debate and doing so increases the risk of judicial review in certain circumstances where the record is not accurate or comprehensive.

Site Visit Procedures

- 4.24 A set of site visit procedures are set out. They are clear and detailed so that the Chair can deal with any issues that may arise.

Technical Briefings

- 4.25 These are used for very large-scale development, where it is desirable for there to be a full understanding of the Council's planning and economic objectives. Such meetings will be organised by officers and run under the procedures set out.

Conclusions

- 4.26 It is hoped that these Procedures will assist LPAs in ensuring that their planning committees are well run.

5 Planning Code Of Conduct

- 5.1 In the context of the Government's implementation of a NSD, the rules around what goes to planning committee will change significantly and it is likely that the nominated member and nominated officer will be put under pressure to report items to committee. The Constitutional provisions POS has recommended are designed to prevent this from happening, but other probity safeguards have been reviewed to make sure that they are still fit for purpose in the new NSD world.
- 5.2 Ever since the Nolan Review into ethical standards in public life in 1995, planning committees are expected to adopt a Planning Code of Conduct. This is usually based on the Local Government Association's (LGA) advice in this area, first published in 1992. Following several subsequent changes to the legislation (eg Localism Act 2011) and the rules that sit behind such codes, the LGA issued new advice in 2013 and a further update in 2019.
- 5.3 The LGA document³ sets out advice as to how to draft a Planning Code of Conduct, but it does not constitute a Code that can be 'cut & pasted' into a Council's Constitution. Our model code in Appendix D does that.

Content

- 5.4 A Planning Code of Conduct, based on the latest LGA 2019 advice would cover the following areas:
- Key purpose of planning
 - Aim of the Code
 - Role and conduct of Councillors and officers
 - Interests: registration and disclosure
 - Bias: predisposition/predetermination
 - Applications submitted by the Council, Councillors or officers
 - Lobbying of and by Councillors
 - Pre-application discussions
 - Post-submission discussions
 - Planning appeals
 - Planning enforcement
 - Councillor training
- 5.5 The main features are explained below.

Features

- 5.6 In today's place-shaping context, early Councillor engagement is encouraged⁴ to ensure that strategic proposals for sustainable development can be harnessed to produce the places that communities need. This Code is intended to reinforce Councillors' community engagement role whilst maintaining good standards of probity that minimises the risk of legal challenge.

³ [Probity in Planning: Advice for councillors and officers making planning decisions](#) (December 2019)

⁴ POS [Good Practice Guidance Note: Strategic Applications](#)

- 5.7 Planning decisions can be controversial. The risk of argument and conflict are heightened by the openness of a system which invites public opinion before taking decisions and the legal nature of the development plan and planning decisions. Nevertheless, it is important that the decision-making process is open and transparent.
- 5.8 One of the key aims of the planning system is to balance private interests in the development of land against the wider public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. Opposing views are often strongly held by those involved. Whilst Councillors must take account of these views, they should not favour any person, company, group or locality, nor put themselves in a position where they may appear to be doing so. It is important, therefore, that Councils make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons.
- 5.9 The process should leave no grounds for suggesting that those participating in the decision were biased or that the decision itself was unlawful, irrational or procedurally flawed.
- 5.10 The Code is a key tool in ensuring these aims are delivered.

Conclusions

- 5.11 It is hoped that this Code will assist LPAs in ensuring that their planning services are well run.

6 Planning Committee Reports

- 6.1 In the context of the Government's implementation of a NSD and the noise around people forging representations on planning applications and using tools like AI, POS has created a template which is designed to produce better, shorter and more legally robust planning committee reports and to disincentivise fraudulent behaviour with representations.
- 6.2 The advice also anticipates the enacting of Section 73B of the 1990 Act, which enables applications for scheme amendments to be made. Once enacted, it will no longer be necessary to impose a condition containing the details and drawings subject to which planning permission is granted and the development must comply with to facilitate the use of Section 73 for scheme amendment by seeking to vary those drawings through amending that condition. Such a condition is ultra vires in the context of Section 73B because it fails the NPPF necessary test because s73B is available for scheme amendment and developments must comply with the approved plans anyway.
- 6.3 However, the approved details and drawings should still be identified on the decision notice for clarity and enforcement purposes as we have long since stopped issuing a set of drawings stamped 'APPROVED' with the planning permission. POS recommends using an informative to do that, unless an LPA lists them elsewhere on the decision notice, such as after the description of development or in a separate section.

Principles

- 6.4 Our template is designed to produce a succinct committee report that presents clearly the information that members need to determine a planning application. Members are busy, so they are more likely to read and understand shorter reports.
- 6.5 It might seem counterintuitive, but a long report, which goes into every issue in extreme detail, is more susceptible to legal challenge because if an issue is not mentioned in such a report, it would be clear that it was missed. A report, which focuses on the main issues, deals with them succinctly and mops up the rest summarily (in the way that an Inspector does in an appeal decision letter), will fare much better if challenged in the courts via a judicial review.
- 6.6 This advice is based on the legal principle used by the courts in reviewing planning decisions, that a planning officer's report should not be read forensically with excessive legal rigour, but with reasonable benevolence. Unless there is a distinct and material defect in the advice given by officers, the court will not interfere with the decision.

Content

- 6.7 The draft committee report template (set out in Appendix E) is based on the above principles and its key elements are:
- 6.8 **APPLICATION SUMMARY:** a table of essential information and the reason the application is being reported to committee.
- 6.9 **EXECUTIVE SUMMARY:** a concise summary of the key reasons for the recommendation to enable members to grasp the main issues quickly.
- 6.10 **RECOMMENDATION:** sets out the recommendation in a way that makes it clear, legally robust and contains the delegations necessary to ensure that items are only brought back to committee when necessary.
- 6.11 **APPLICATION DETAILS:** a brief description of the site, the surrounding area and the proposal, using bullet points where possible.
- 6.12 **BACKGROUND:** this section summarises earlier iterations of the proposal (such as a previous refusal/appeal), as well as any pre-application discussions, community engagement or design reviews plus any other relevant background information. Delete this section if there is no background information to report.
- 6.13 **PLANNING HISTORY:** a summary of the planning history on the application site that is relevant to the current proposal, plus any in the surrounding area that are similarly relevant. Delete this section if there is no relevant planning history.
- 6.14 **CONSULTATION RESPONSE:** sets out, in summary form, the views received. The summary of responses should:
- clearly distinguish between statutory and non-statutory consultees;
 - explain the different legal duties for taking them into account; and
 - identify matters that are not material planning considerations with a brief explanation as to why.

- 6.15 The final point is an important part of the POS ‘stick to the knitting’ agenda⁵ to call out consultees who try to use the planning system to deliver their own legislative responsibilities; many of their requests to impose conditions can and should be dealt with by informatives. The rules are clear in this context: conditions should only be imposed where they are relevant to planning and necessary. A matter that is dealt with under other legislation will fail these tests and should therefore not be the subject of a planning condition. The draft NPPF NDMPs DM6 and DM7 make this clear and the PPG states⁶, ‘Conditions requiring compliance with other regulatory regimes will not meet the test of necessity and may not be relevant to planning. Use of informatives to remind the applicant to obtain further planning approvals and other consents may be more appropriate’.
- 6.16 **LOCAL REPRESENTATION:** sets out, in summary form, the views received. The summary of responses should:
- explain what publicity, advertisement and notification was carried out;
 - distinguish between objections, support and procedural matters; and
 - identify matters that are not material planning considerations with a brief explanation as to why.
- 6.17 The layout/wording of this section does not state how many representations were received, nor attributes a representation to a person or a body because neither of these are material planning considerations. It is the substance of what has been said that is material, not how often it has been repeated or who said it. POS is encouraging MHCLG to state this clearly in the NPPF/PPG to both ensure that members take local representation into account properly (on their substance not the quantity – a planning decision is not a local plebiscite) and to discourage voluminous objection or support campaigns that add nothing to the decision-making process, other than unnecessarily increasing the workload for LPAs and costs to the Council Taxpayer.
- 6.18 **MATERIAL PLANNING CONSIDERATIONS:** in this section the main determinative planning issues should be identified and dealt with properly but succinctly. Officers are instructed not to list all the relevant planning policies, but to introduce and deal with them as they arise when the issues that they relate to are dealt with.
- 6.19 The other planning issues are dealt with summarily, like a Planning Inspector does in their decision letter. Other issues, such as local finance, human rights considerations and the public sector equality duty, are also included.
- 6.20 The section ends with the planning balance and conclusions. The overall policy position is summarised, including any tilted balance; the planning balance on the other material considerations is set out; and the conclusion and recommendation are stated.

Conclusions

- 6.21 It is hoped that the use of this template by LPAs will improve the way planning applications are reported to, considered and determined by planning committees.

⁵ [Manifesto Background Paper 15: Planning applications: how to speed up the process](#) and [Planning for a better future: Our planning manifesto for the new Government](#)

⁶ PPG Paragraph: 005 Reference ID: 21a-005-20190723

7 Update Reports

- 7.1 Late material, received after the committee report is drafted, must be handled properly. It should only be reported to committee where that is necessary, and it is important that it is reported in the same way as the equivalent material was reported in the main committee report. A template that achieves this is set out in Appendix F.

Conclusions

- 7.2 It is hoped that the use of this template by LPAs will improve the way late material is reported to planning committees for consideration.

APPENDICES:

These appendices contain the templates needed to implement the NSD reforms recommended in this POS Good Practice Guidance Note. They are provided as separate Word documents to ease their implementation.

A. Planning Scheme Of Delegation

This appendix contains two templates for a local Scheme of Delegation, in the context of the National Scheme of Delegation for planning authority functions, that can be slotted into a Council's Constitution and its Management Framework to ensure that it is clear who and under what circumstances planning decisions can be made. It also takes the opportunity to set out the delegation of all planning matters to minimise the risk of legal challenge or complaint to the Ombudsman.

B. Vexatious Customer Procedure

This appendix contains a model procedure to deal with planning related complaints that are unreasonably persistent, malicious and/or vexatious or flagrantly in breach of rules or procedures.

C. Planning Committee Procedures

This appendix contains a model set of procedures and rules designed to ensure that planning committees operate in a way that minimises the risk of legal challenge or complaint to the Ombudsman.

D. Planning Code Of Conduct

This appendix contains a model code, based on the Local Government Association's advice, is intended to reinforce Councillors' community engagement role whilst maintaining good standards of probity that minimises the risk of legal challenge or complaint to the Ombudsman.

E. Planning Committee Report Template

This appendix sets out a template for a report to planning committee which is designed to produce better, shorter and more legally robust planning committee reports, to disincentivise fraudulent behaviour with representations, and to minimise the risk of legal challenge or complaint to the Ombudsman.

F. Planning Committee Update Report Template

This appendix sets out a template for an update report to planning committee which is designed to ensure that late material is only reported where it is necessary and then in an appropriate and consistent way to minimise the risk of legal challenge or complaint to the Ombudsman.