

GDPR

Launch events – slide deck

March 2021

local.gov.uk/pas

- This deck was used at a set of launch events

- Launch event / consultation event
- You have the guide, yes?
- We are on Zoom. Turn your camera on and I will see you (which is nice!)
 - Hands / chat
- In the room...
- Hear from me, but also each other ++

1. How “strong” is this guide?
2. How we got here
3. What happens next?
4. GDPR and risk
5. What I really want you to notice (x7)
6. Questions

How strong is this guide?

- Its helpful (hopefully) but not definitive
- Doesn't remove your responsibilities
- Grateful to ICO and MHCLG
- Please be suspicious of it
 - Together we can improve it?
- It took loooooooooooooooooooooooooooooooooong

How we got here

- Early on planning recognised as a risk
 - Other peoples' data
- Baseline practice varied and sometimes poor
 - E-planning / Pendleton
 - ICT systems do what they do
- Poor Basildon
- It still (today) a mess out there
 - Lots of stuff I read is just wrong

How we got here

- Began drafting pre-Brexit
 - Some of the references are out of date (ish)
- Pandemic!
 - The ICO instantly had bigger fish to fry
- Lots of water under the bridge. You've had to work out lots of this on your own. Sorry.

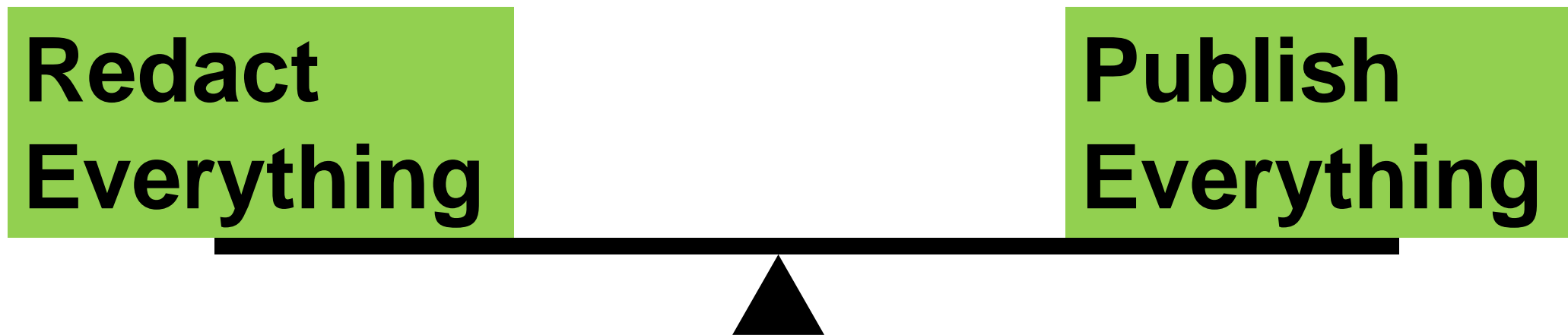
What happens next?

- Get the guide finished
 - Do we need more mini case studies?
 - Do we need more content?
 - Is the balance appropriate?
- Stay alert!
 - PWP? New DMPO? Hybrid model?
 - Post Brexit?
 - Other changes ...

What happens next?

- What I'd like to see = new regs
 - Updated to reflect internet age
 - What LPAs do and what PINS does
 - Adapting to greater citizen involvement everywhere (not just in applications)
 - Personal data in plans
 - Personal data in design codes?
- **GDPR + FOI + EIR + SAR + RTBF**

- GDPR risk exists along an axis



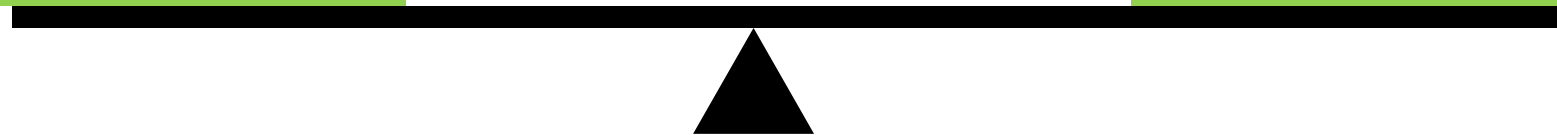
- GDPR risk exists along an axis

**FOIs +
Suspicion**

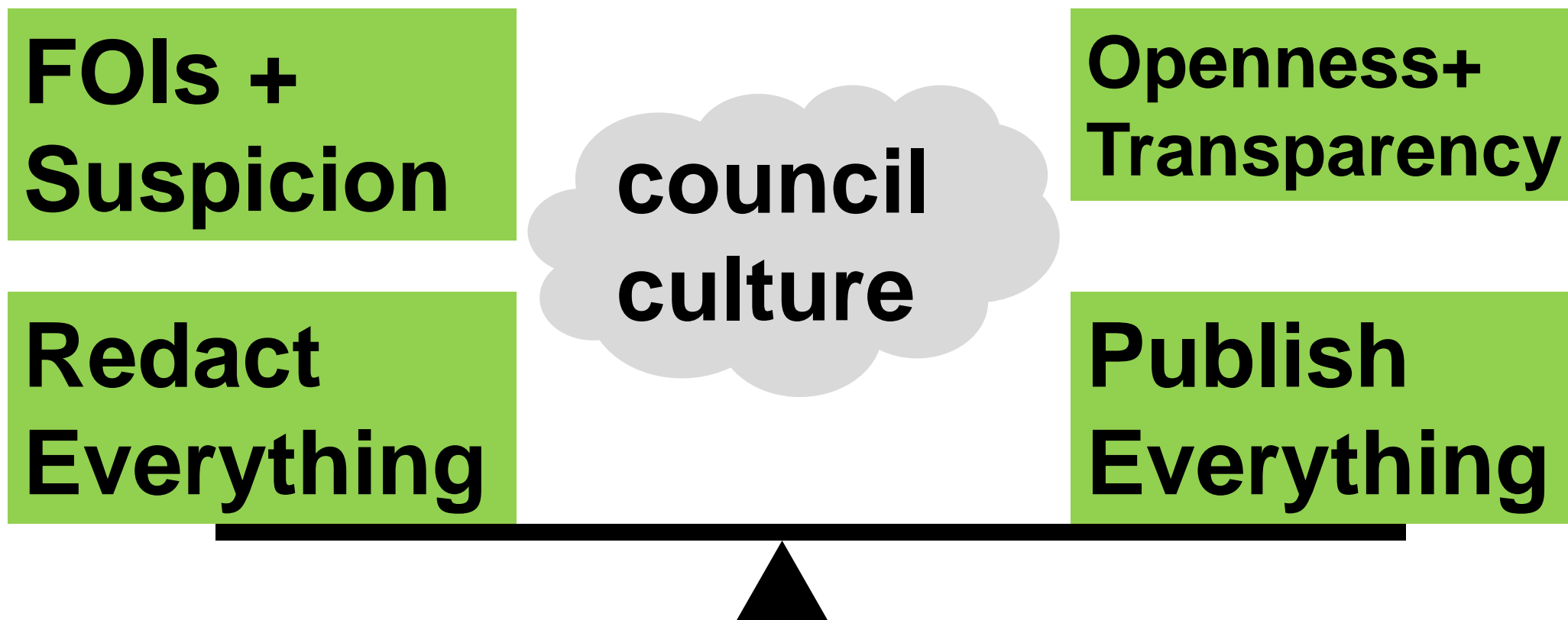
**Openness+
Transparency**

**Redact
Everything**

**Publish
Everything**



- GDPR risk exists along an axis



- The planning department is not an island
 - Understand your council's attitude
 - Prepare to shift
- Risk is not binary
 - You cannot manage it to zero
- Understand the red flags
- Don't over-react

- Red flags
 - SCD
 - Vulnerable people
 - Unwitting
 - Unnecessary disclosure
 - Thoughtlessness
 - Mess
 - No “story”

- Red flags
 - SCD (health)
 - Vulnerable people (children)
 - Unwitting (3rd people)
 - Unnecessary disclosure (people not process / land)
 - Thoughtlessness (automatic)
 - Mess (records and filing systems / DMS)
 - No “story” (standards, training, top-up, notes)
 - Others?

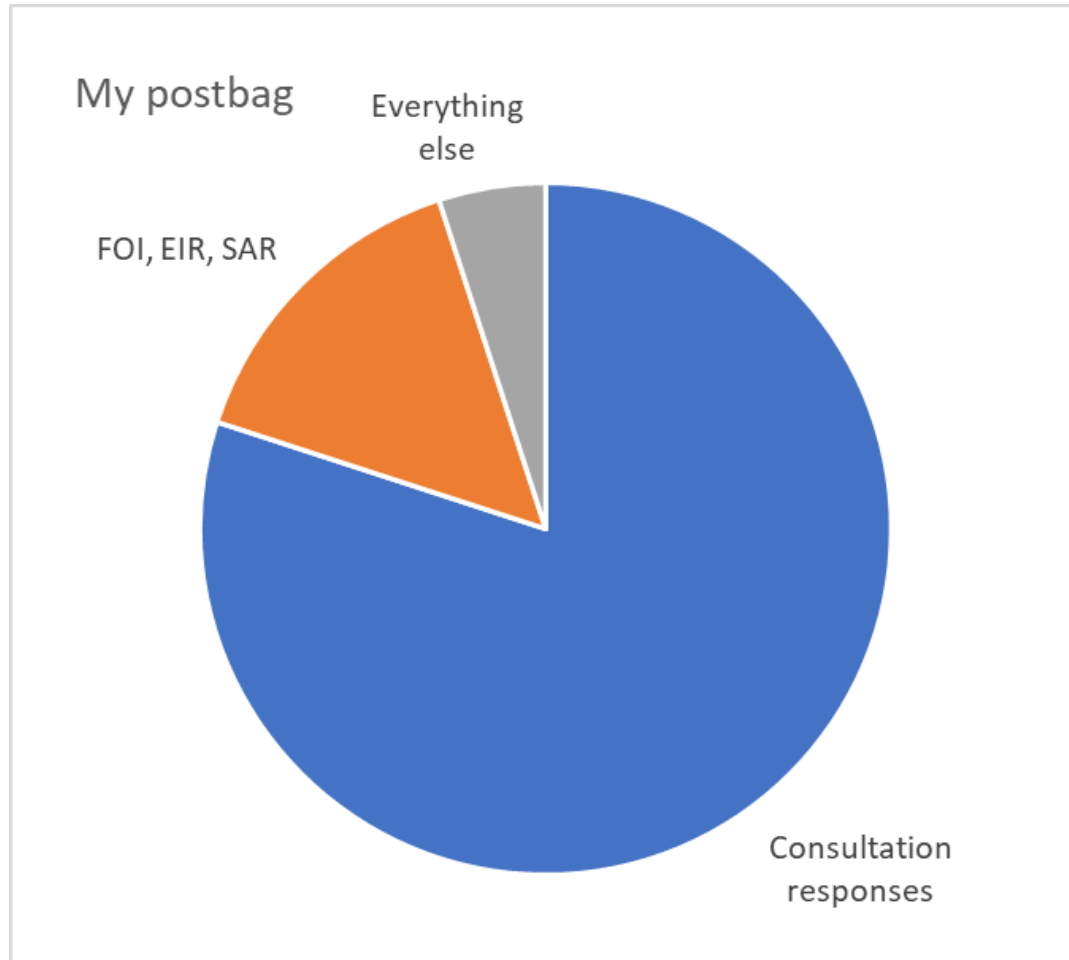
What I want you to notice

- The handful of things I want you to notice
- You might not agree with all of them

What I want you to notice

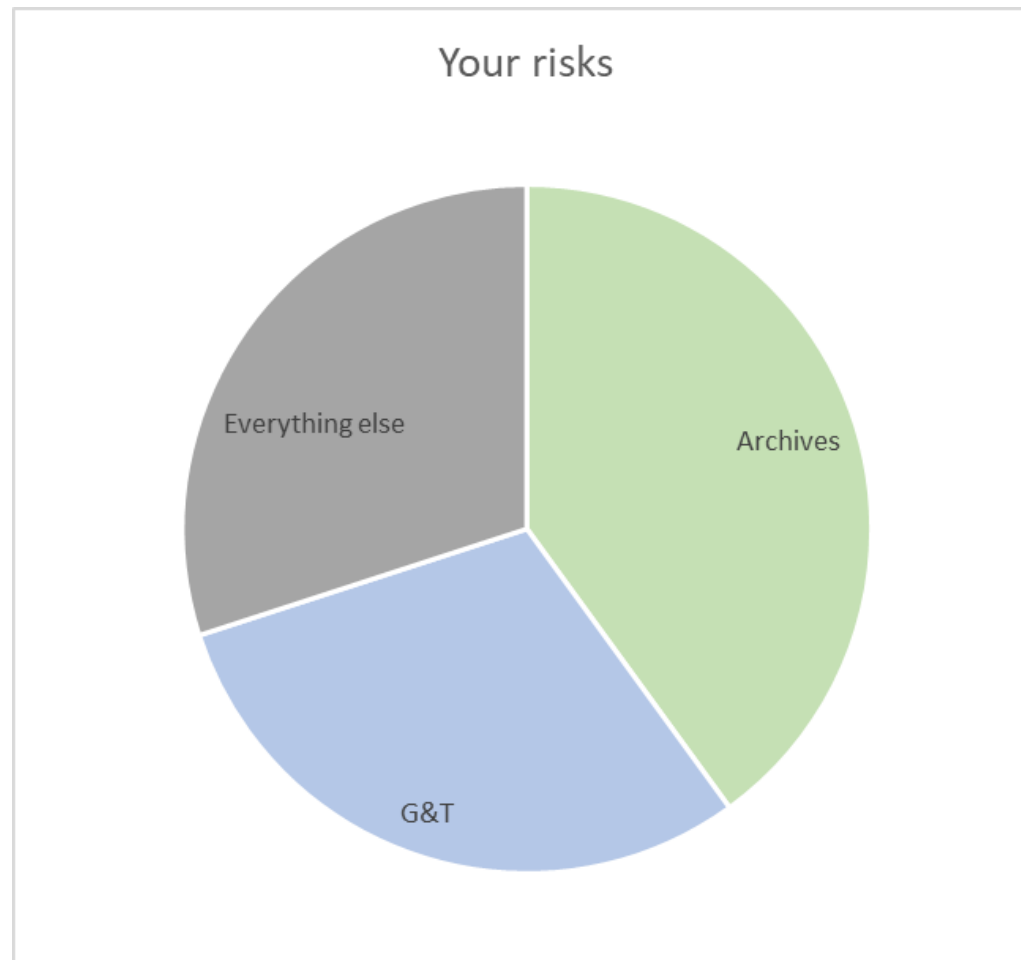
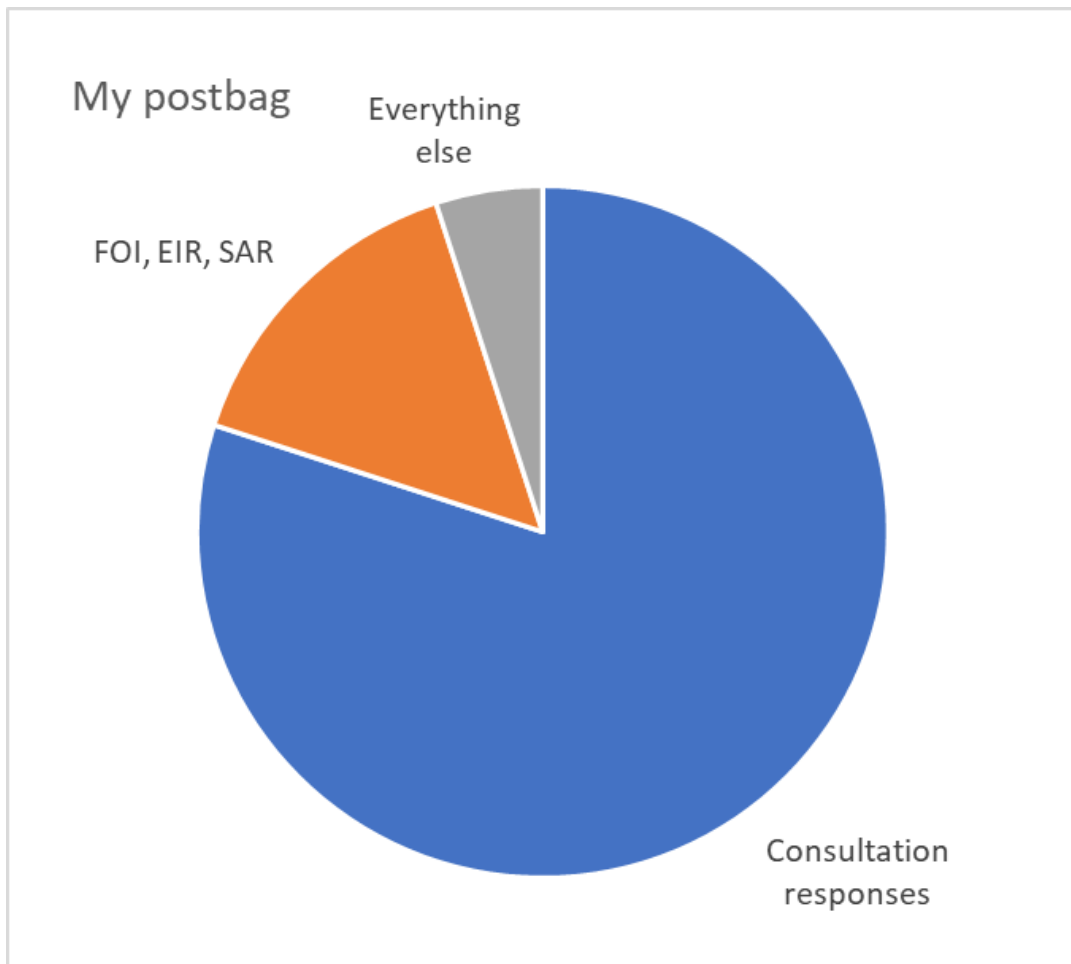
- It's in HTML
- It's not definitive
 - “would *likely be* public task”
 - I can't decide this for you. Only you (the data controller) can.
- Read it alongside the ICO material
 - Honestly their stuff is great
 - Keep a broad view (eg SAR)

What I want you to notice



“To publish or not to publish?”

What I want you to notice



What I want you to notice

- GDPR does not just apply from now on
- You might have done well-meaning but unfortunate things in the past
 - Scanning whole archives? Online?
 - Enforcement? Enforcement appeals?
- You can triage this risk
 - Certain application types with SCD

What I want you to notice

- Information about third parties
 - People provide you with data about other people
 - Certificate 'B', relationships
 - Article 14 becomes relevant BUT is it necessary?
 - Balance tilted against
 - Always? No. The mayor's wife submits an application?
- You *likely* need to redact this data
 - And send them a link to your privacy notice as per Article 14

- Should we publish comments on planning applications?
 - Initially “yes”. Now “likely not for private individuals”
 - What’s the point? Is it necessary for rational decision-making?
 - “we are at risk of favouritism if only certain views are published” / how do we decide “significant”?
- Yes to stat cons and other significant inputs
- No to “our ICT system makes it too hard”

- Enforcement
 - A good register can prevent people buying land with notices / s70C situations
 - Help people avoid mistakes
 - But the “pending” list might contain SCD
 - Esp reports to committee / councillor panels
- Important to get right, easy to get wrong

What I want you to notice

- Local plans – easy peasy?
 - “Releasing GB would worsen my mental health”
- This is a new section- what do you think?
 - Is it post examination (or adoption) that you would stop sharing the responses?

- Doc retention
 - 4 categories
 - Goldilocks?
 - DMPO Article 40 (13) (a)
 - Decided + appeal period elapsed without appeal
 - See also Appendix 2

	Category	Example	Policy
1	Temporary documents used to make a decision	Neighbour consultation responses	Remove when finally disposed of
2	Supporting documents for developments that are finished, without s106 negotiations, enforcement or similar activity	Officer reports for Householder and Minor developments	Remove from website and destroy after 4 years for delegated decisions 6 years for committee decisions ^[10]
3	Supporting documents for significant developments that are finished	Statutory consultee responses to major developments, infrastructure	Remove from website and public registers Keep in case of fire, accident or similar investigation
4	Documents required for the statutory registers	Approved plans, enforcement notices, decision notices (and planning conditions contained within them) by the LPA, the effect of any decision made following appeal	Keep for ever

What I want you to notice

- “Help someone is scraping our data!”
- Publishing data in the open does not make it a “free for all”. But what about indexing?
 - The boy who made comments and then became a copper
 - Home address available via google
- Public / private interface
- See also copy / paste into facebook

1. Archives
2. Third parties (cert B etc)
3. Comments from private people
4. Enforcement
5. Local plans (!)
6. Doc retention
7. The rest of the internet is not yours to police

- Right to be forgotten
- What does SAR really mean for a case file?
- Do applicants have a right to see a case file?
- Set out the arguments for/against keeping consultation responses in public
- Self-build (etc) register

PAS

The latest from PAS

Local Plan Gateway Review

Local Planning Authorities (LPAs) are required to have an up to date local plan in place by the end of 2023 or face government sanction/intervention. The planning system is in the middle of substantial change and PAS has created a "Gateway Review" - to help LPAs weigh up the best options for getting their local plan 'to the line'.

Infrastructure Funding Statements - A step-by-step guide and sample template

In December 2020 councils have to report for the first time on Section 106 contributions, and for those that charge the Community Infrastructure Levy the reporting requirements have changed slightly too. We have put together a guide and even a video to help you understand what you must report and what you should report.

Upcoming Events

Find out about our new series of events that are focussed on developing the skills you need to be a better planner or councillor involved in planning.

Keep in touch

The Planning Advisory Service bulletin
Sensible people do not volunteer to get more email. But 8,000 people including planners from every planning

Subscribe to our bulletin

It is where we announce new materials and events.

See also @pas_team