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| Planning Advisory Service |
| PAS Development Management Challenge Toolkit |
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| Monitoring and Enforcement |



# Introduction

Monitoring and enforcement forms one of 15 sections of the PAS Development Management Challenge Toolkit. Please refer to the complete document for information on the other 14 sections and further background to the toolkit.

The planning decision is just one part of the development process and, whilst the Planning Authority cannot insist that a development is actually delivered, it can ensure the planning process does not hold up the delivery when approved. Therefore the effectiveness of the discharge of conditions process or dealing with amendments is key to ensuring that the developer can implement a scheme as long as it meets the requirements of the Planning Authority. It should also continually monitor outcomes to ensure that they are to the quality that the Council expected. Each Council will choose how much resource is put into enforcement and how it prioritises enforcement. However whatever approach it takes, it needs to be transparent and prioritse the matters that are important to the Council.

Please consider the statements below that attempt to define what an excellent and poor Planning Authority looks like and then consider some tips to improve performance. The purpose of defining poor and excellent is meant to be controversial and to stimulate debate within a Council. The tips will work for some Councils and not for others because every Council is different and therefore has different priorities for improvement. The tips are also aimed at getting Planning Authorities to think about solutions and to work through challenges in bite size ways rather than being overwhelmed by the problems it faces.

# How to use it

For each part discuss where you feel your Council sits on a scale from 1 (poor) to 5 (excellent). If you disagree with one another (which you are likely to do) discuss why you have different views as perception is a really important factor in improving how things are done. Ultimately the final score is not as important as what you are going to do about it. However it is really important to write down why you have either agreed on a score or why you can’t decide on a score. This will help you to understand where you are as a service on the journey between poor and excellent and if you don’t write it down you will have no record of why you came to those conclusions.

Next look at the ‘top tips’ and actions you want to take from the session. Which tips are you going to take on board and which are you going to dismiss? – it is ok to say a tip is not for you as long as you know why. Then if you decide you want to take forward a tip decide how you are going to implement it. Some you simply need to do and others may involve outside support such as from PAS. Also consider what other actions have come out of the discussion. Encourage all staff taking part in the session to generate other ideas and actions to help you develop an action plan.

Finally decide what score you would like to be. It may seem obvious that you always will want to be a 5 (excellent) but this is not always the case as it depends on where you want to focus your priorities as a service. For example how important is monitoring performance to your service? All Planning Authorities will want to monitor speed and quality of decision making as these are the minimum benchmarks set by Government but you will then need to balance the time spent in collecting information about all areas of the Development Management process against the staff resources you have to deliver an excellent service. Only you will know whether you want to reach a 5 or whether you may be happy to be a 3 or 4. However again it is really important to write down why you have settled on a particular score.

Following pilot work on the toolkit each section usually takes about an hour to an hour and a half to complete. However the time you spend on each section very much depends on how much discussion and disagreement takes place – it will sometimes be shorter and sometimes longer. Also some sections are longer than others so there will inevitably be a difference in time spent on each.

When you have completed the sections that you feel are important to your service you should be in an excellent position to prepare your own action plan of improvement in the format that is appropriate for your organisation. However it is also really important to use the toolkit to reflect back on the things you are doing well and therefore do not need to change. Do not simply dwell on the negatives but celebrate success and promote best practice within your service. It is really important when Planning Departments are struggling with resourcing and workload presssures to celebrate with staff good practice and a job well done.

# How to involve staff in the discussion

It is particularly important that all staff involved in the post decision making process are involved in the discussion including planning enforcement officers and any other staff involved in condition monitoring. However it is also important that those not directly involved can provide a perspective on how this part of the decision making process is perceived.

# Facilitator’s tips

* Ask yourself challenge questions such as: Do we agree with excellent? Do we agree with poor? Are the tips helpful? What do we need to do if anything to change?
* Make sure you have someone to write down your conclusions and check what has been written before moving on to the next session. It is really important to ensure everyone’s thoughts are represented accurately
* The scores are there to help you conclude the effectiveness of your Development Management service but do not spend too long debating the scores, they are only there to give you guidance
* As always it is about getting the right people in the room and making them comfortable to contribute. Some staff may feel that their contribution is not as important as others. Make sure it is inclusive and everyone’s views are given equal weight
* Some staff may feel uncomfortable when some topics are discussed. Ultimately you need to decide whether all staff should be involved in the whole session, but the toolkit works best when staff are able to express their views openly without fear of repercusssions.
* This process can work really well with people from different councils so that services can learn from each other and suggest ways of working together in future.
* Many issues that people identify can be tackled at a number of different levels. Encourage people to think of what they could just do on Monday, as well as the bigger trickier things that need buy-in.
* Always agree a follow up action plan that will result from the discussions, otherwise the ideas, enthusiasm and momentum will be lost.

# For more information & Help

If you would like more information about any aspect of the Development Managament Challenge Toolkit or would like to take part in or organise a facilitated improvement session please contact Planning Advisory Service**pas@local.gov.uk****.**

To help you progress your action plan there is a range of support available on the PAS website along with links to other helpful sources of information. Please visit the website at <https://www.local.gov.uk/pas>

| **A poor Development Management Service (score 1)** | **An excellent Development Management Service (score 5)** | **Top tips** |
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| The Committee or officers do not hold post decision site meetings or reviews. There is therefore no monitoring on outcomes of decisions that are made. | The Committee and officers hold regular post decision reviews to critically assess the results of their decisions. As part of this process there is dialogue between Members, the applicants and officers to see if lessons can be learnt about good and bad practice. These lessons are then used as part of the ongoing Member and officer learning. | 1. Schedule in Committee post decision site visits e.g. as part of the annual training event or when there is a light Committee agenda
2. Incorporate officer site visits as part of an officer training day and encourage all staff to participate regardless of grade or experience
3. Encourage applicants or current occupiers to participate so that you can learn first hand the issues with a development
4. Use the opportunity to motivate staff by praising staff for a job well done
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| **SCORE: (out of 5)** **Why this score?****What score would you like? (out of 5)** **Why this score?** |

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| The case officer is so overloaded with work that once a decision is issued they will only deal with post decision matters if an item is assigned to them from a manager. If an applicant has a post decision enquiry it gets routed to the main Planning number or the Council’s call centre and whoever picks up the call will get the relevant information from the Planning software as the case officer does not have the capacity to deal with such matters. | The Planners’ job is not finished on an application until the development is complete. Either the case officer who issues the decision will guide the condition discharge process or there is an assigned officer to carry out this task and this officer helps to consider where enforcement action may be necessary. For larger developments if there is no obvious sign that development is about to take place when the application is close to its expiry date an officer will contact the applicant and find out why there is a delay and offer to help unblock any impediments to development taking place.  | 1. Keep a track on post decision matters such as conditions. Assign an officer to follow up on conditions that are not discharged and to bring in the condition discharge fee
2. Managers to use 1 to 1s with case officers to review decisions and check on progress
3. Use other officers in the department to help unblock delivery issues e.g. housing, ecology or conservation officers
4. Encourage the most appropriate officer to work with enforcement officers to find a negotiable solution to an enforcement issue
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| Non material amendments are treated as a very low priority as they generate no fee and normally a junior officer will pick them up if they have time. There is no guidance on what constitutes a non material amendment so the officer needs to use their own judgement on a case by case basis. Normally they are agreed through a letter or email but it very much depends on which officer is dealing with it. Some officers have come up with their own forms but they are ‘unofficial’. The information sometimes appears on the application file but are often forgotten. | There is a clear policy on what constitutes a non material amendment. This is published on the website and officers have received training on differentiating a material and non material amendment. There is a process in place for dealing with non material amendments but it is very straightforward and all correspondence is placed on the application file for audit purposes. | 1. Use best practice to provide guidance on non material amendments but discuss with officers as it needs to fit the type of development that the Council receives
2. Introduce process notes for agree non material amendments but do not overcomplicate the process
3. Have an effective process for uploading relevant information onto the Planning software
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| Condition discharge applications are treated as a low priority and there is no allocated officer to undertake this task so it is often forgotten. The timescales and agreement is driven by the efficiency of consultees rather than the Planning Authority. Priority is normally determined by a deemed discharge notice being served on the Planning Authority. Numerous conditions are discharged through a deemed discharge notice and so this has become part of the standard practice. | There is a clear process in place for condition discharge applications and the timeliness is performance managed alongside planning applications. No deemed discharge notices have been served on the Planning Authority because officers regularly update the applicant and agreement is reached on timescales. A simple notice is issued with the discharge of a condition that clarifies whether the condition has been discharged in full, in part or not discharged and a record is cross referenced with the original application. | 1. Offer a paid for pre application condition discharge service for complex condition discharge matters. If the applicant does not agree to this then make a decision based on the information submitted
2. Have a clear system in place on who deals with condition discharge applications and whether it is the responsibility of the case officer or another suitably qualified officer
3. Introduce a simple notice to discharge conditions but do not overcomplicate matters
4. Include timeliness of condition discharge as part of the performance measures so it is prioritised by staff
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| There is no enforcement policy and the priority is normally decided by whoever shouts loudest or the pressure Members put on officers for political reasons e.g. forthcoming election. No one really knows how many enforcement cases are currently live and performance standards are based on the number of complaints received over inaction by officers. | There is a published enforcement policy and this has been discussed with councillors. The enforcement policy prioritises cases and gives clear performance standards that are then adhered to by officers. The number of outstanding cases are closely monitored and where necessary action is taken to reduce the number of cases through management support. | 1. Undertake specific councillor training on the enforcement policy and present at Committee
2. Encourage regular case reviews between the enforcement officers and managers to assist moving cases forward and avoiding a large outstanding caseload
3. Consider reporting performance at Committee and celebrate successful action
4. Create process notes for dealing with enforcement cases so that they are properly recorded and consistently dealt with
5. Encourage all enforcement enquiries to be lodged online to ensure that they are accurately recorded
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| There is no time for proactive enforcement work because of resource issues. As a consequence many planning enforcement cases are simply not investigated because abuse of the planning system is so widespread that it is pointless trying to take any action. | There are regular high profile proactive enforcement initiatives that help raise the profile of particular enforcement issues in the area. For example resources are put on proceeds of crime cases that gain media attention and acts a major deterrent to landowners. In this way the number of ongoing enforcement cases reduces because potential contraveners know that they will not get away with works that require planning permission. | 1. Agree with the lead Member for Planning a forward programme for proactive initiatives and involve the Council’s communications team so that it can be widely publicised
2. Seek support for the lead Member for Planning to temper councillor expectations on certain enforcement action so that they do not promise too much to the public
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| **Actions to follow up and tips you will you be considering?****Which tips are helpful?****Actions to take forward** |