



planning advisory service



Monitoring and Enforcement

Topic Training Module



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Purpose of the training module

- Aims to increase your understanding of the monitoring and enforcement issues relating to shale developments at both the pre-application and operational stages of development.
- One of a series of topic training modules.



The facilitators and regulators

- This slide will contain information about the facilitators and their experience in respect of planning for shale developments
 - It will also contain information about other attendees that will be making presentations or assisting with the facilitation of the event such as the other regulators, CLG etc
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Housekeeping



What is Planning Advisory Service for?

- Funded to support English planning authorities

“[PAS] exists to support local planning authorities in providing effective and efficient planning services, to drive improvement in those services and to support the implementation of changes in the planning system”



- Also work directly with councils
 - Part of the Local Government family (LGA)
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Contents

- Exploratory monitoring
 - Environmental baseline monitoring
 - Planning conditions and obligations
 - Monitoring and enforcement by the MPA
 - Monitoring and enforcement by other regulators
 - Community liaison groups
 - Break out session – how can monitoring and enforcement be made more effective?
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Exploratory monitoring

- From 6 April 2016, permitted development rights, subject to certain exclusions and conditions, exist for the drilling of boreholes, preparatory to petroleum exploration, for up to 20 days, for the purposes of:
 - (a) carrying out groundwater monitoring;
 - (b) seismic monitoring;
 - (c) locating and appraising the conditions of mines.
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Environmental Baseline Monitoring (1)

- Widely acknowledged that baseline monitoring is required ahead of any shale gas or oil development.
 - Monitoring the baseline means that if any changes result from the development they can be detected and necessary actions put in place before serious harm is caused or if no change occurs provide reassurance that operations are being undertaken safely.
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Environmental Baseline Monitoring (2)

- BGS is monitoring independent of regulators and industry in Lancashire and North Yorkshire.
 - Monitoring and investigation involves
 - water quality (groundwater and surface water)
 - seismicity
 - atmospheric composition (air quality and greenhouse gases)
 - ground motion
 - radon in air
 - soil and near surface gas
 - Real time data can be viewed on the web-site
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Planning Conditions and Obligations (1)

- NPPF paragraph 54 states: “Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.”
 - NPPF paragraph 55 states: “Planning conditions should only be imposed where they are necessary, relevant to planning and to the development that is permitted, enforceable, precise and reasonable in all other respects.”
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Planning Conditions and Obligations (2)

- NPPF paragraph 56 states: “... obligations must meet tests”
 - (a) necessary
 - (b) directly related to the development; and
 - (c) fair and reasonable in scale and kind
 - PPG adds that when used properly conditions can mitigate the adverse effects of the development.
 - Relevant to shale developments PPG: “Conditions requiring compliance with other regulatory regimes will not meet the test of necessity and may not be relevant to planning.”
 - Harthill Appeal Inspector’s report : *“It has also been suggested that ‘mission creep’ may result if the appeal is allowed. This however needs to be controlled by the conditions imposed and not by refusing permission in the first place”*.
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Possible Conditions

- As with any development conditions need to be tailored to the specific circumstances of each site.
 - Conditions are likely to be required on the sort of matters that normally apply to mineral developments – highways, noise, soils, working programme, working hours, drainage, lighting, ecology, landscaping, archaeology, community liaison group, restoration, aftercare etc.
 - PPG contains model conditions on various topics for surface area hydrocarbon development.
 - Relevant to monitoring the MPA can be required to be notified prior to commencement and after completion of various key activities such as drilling, hydraulic fracturing, flaring of gas, extended flow testing and decommissioning.
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Inappropriate Conditions

- Conditions should not relate to any of the matters that fall under the responsibility of the other regulatory bodies.
 - Conditions need to be necessary, relevant and reasonable so a condition such as requiring a baseline health survey of local residents is not likely to be acceptable.
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Pre-Commencement Conditions

- A pre-commencement condition is a condition that must be complied with before development begins.
 - Should only be imposed where justified in order to prevent unnecessary delays to the development.
 - New regulations introduced on 1 October 2018 mean that the LPA must obtain the written agreement of the applicant before imposing such conditions.
 - Applicant has 10 working days to respond to the notification.
 - Intention is to reduce time lag between grant of planning permission and work starting on site.
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Monitoring by the MPA

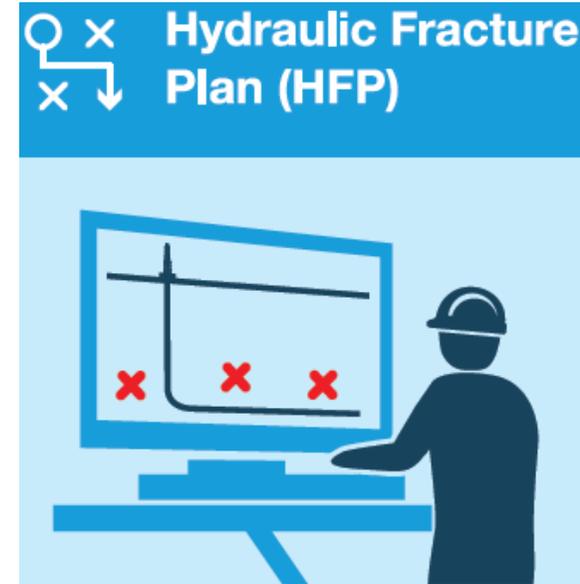
- There is often public concern over the capacity of MPAs to monitor shale sites effectively.
 - Most MPAs are likely to have only limited dedicated monitoring staff.
 - Monitoring can often appear to be given lower priority than dealing with planning applications.
 - The MPA can charge the operator for making up to 8 site visits per annum when the site is operational and for one visit at other times.
 - Local communities and the site operator can help the MPA by bringing potential breaches of conditions to its attention.
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Enforcement by the MPA

- Failure to comply with a planning condition is a breach of planning control against which the MPA can take enforcement action.
 - Enforcement should be expedient, in the public interest and proportionate.
 - Effective enforcement is important to maintain the integrity of the decision-making process and help ensure that public acceptance of the process is maintained.
 - The MPA has a variety of options available including taking no formal action or formal actions such as issuing a breach of condition notice, enforcement notice, stop notice, injunction etc. Evidence to support any formal action is vital.
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Hydraulic Fracture Plan (HFP)

- If hydraulic stimulation is proposed as part of operations, a Hydraulic Fracture Plan (HFP) must be agreed by:
 - Oil & Gas Authority
 - Environment Agency
 - in consultation with the Health and Safety Executive
- The Hydraulic Fracture Plan sets out how the operator will control and monitor the fracturing process and assess the risk of induced seismic events.
- The OGA must be satisfied that controls are in place to minimise the disturbance from seismic activity to those living and working nearby and to mitigate the risk of damage to property.



Operator sets out how it will control and monitor the fracturing process

Identifies and assesses the locations of existing faults to prevent hydraulic fracturing from taking place near them

HFP must be agreed with OGA and Environment Agency

OGA must be satisfied controls are in place to minimise disturbance

Seismic Monitoring

- The operator is required to run a **real-time traffic light system (TLS)** throughout operations
 - TLS data is also independently recorded and published by the British Geological Survey (BGS)
- **Ground motion data** close to nearby dwellings and other structures.
- **Decision tree** must be followed, and actions taken in response to the TLS
- **Downhole Micro-seismic Monitoring** during Injection



Before and during operations, the operator must carry out seismic monitoring as agreed in HFP

May include additional recording to measure levels of ground motion close to nearby dwellings and other structures

Where magnitude/ground motion are in line with the HFP, this confirms geological understanding and injection can resume, subject to any mitigation as part of the agreed HFP

Traffic Light System



$M \geq 0.5$

Operator must suspend injection, reduce pressure and monitor seismicity and ground motion for any further events before potentially resuming



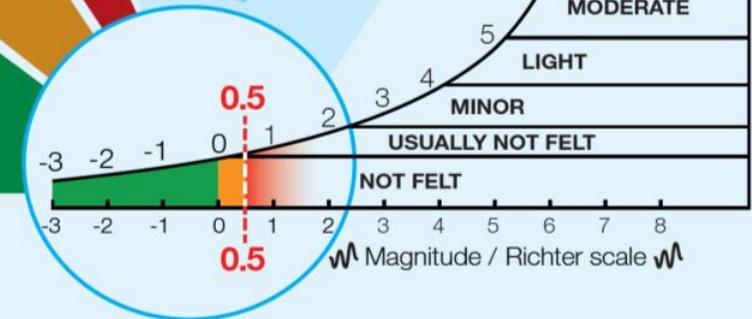
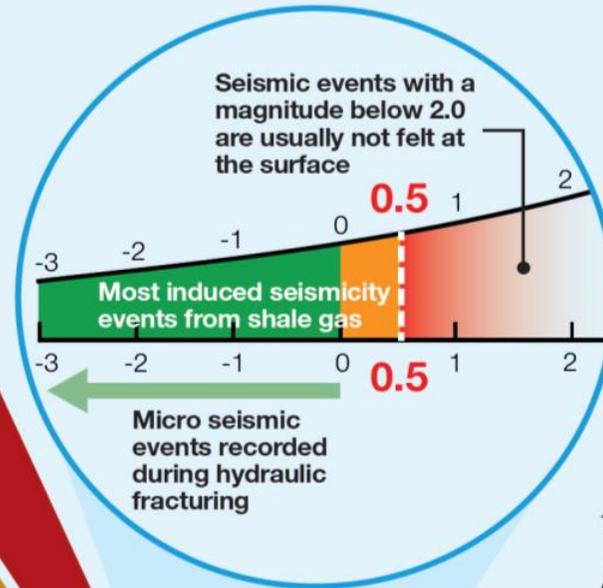
$M \geq 0.0$ to < 0.5

Injection proceeds with caution, possibly at reduced rates. Monitoring is intensified



$M < 0.0$

Injection proceeds as planned



Magnitude / Richter scale

Monitoring by Environment Agency (1)

- The EA has various monitoring interests and responsibilities.
 - Environmental permits are required for management of waste, protection of ground and surface water and flaring of waste gas.
 - The EA work with the other regulators to check the information provided and a robust inspection regime to ensure that the operations comply with the permits.
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Monitoring by Environment Agency (2)

EA ensures compliance with permits in a number of ways

- Operator monitoring as specified in the permit
 - Audits – data, equipment and staff
 - Site inspections - planned and unannounced
 - Powers of entry under the Environment Act
 - Joint inspection with other regulators
 - EA may also undertake additional monitoring
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Enforcement by Environment Agency

EA has a range of possible actions if operator breaches permits or causes pollution

- Advice and guidance
- Improvement notices
- Warnings
- Prosecution
- Closure of site

Monitoring and compliance records are publicly available

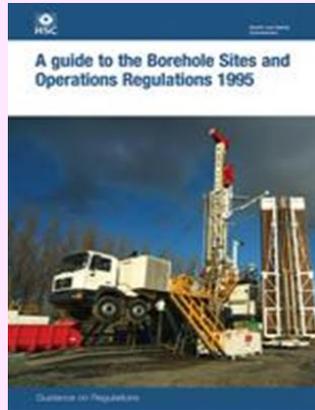
Inspection and Enforcement by HSE

- The main interest of the HSE relates to the design, construction, operation and decommissioning of the well so that there can be no unplanned escape of fluids.
 - HSE scrutinises operations through notifications and reports, site visits and joint inspection
 - HSE has following powers of inspection and enforcement
 - Powers of entry
 - Proportionate approach to seeking compliance
 - Improvement notices
 - Prohibition notices
 - Prosecution
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Well Integrity

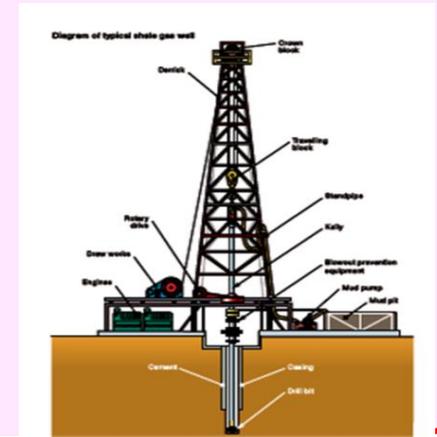
Regulations

- No unplanned release of fluids
- Notification
- Weekly report
- Independent well examination



300 onshore wells drilled since 2000

4000 wells drilled offshore since 1965

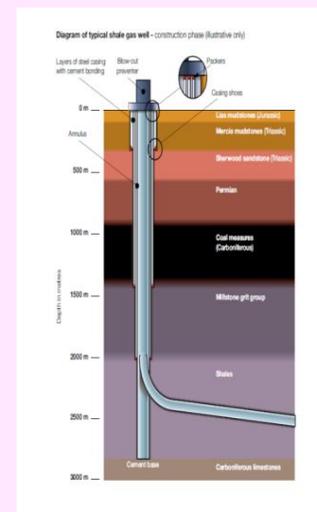


Lifecycle approach

- Design
- Construction
- Decommissioning

HSE inspection

- Notifications and reports
- Site visits
- Joint inspection with other regulators



Community Liaison Groups

- Community Liaison Groups (or Committees) serve as a vital communications forum
 - Holding operators to account, keep the community informed of developments – “eyes and ears” on compliance
 - Membership includes - operators, MPA, councillors, residents’ groups. Also helpful if other regulators are represented.
 - The Committee can usefully carry out site visits to the development to see operations at first hand.
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Break-out Session: How can monitoring and enforcement be made more effective?



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Discussion Points

- MPAs have many calls on their staffing and other resources. Often these are considered to be higher priorities for attention than monitoring and enforcement. **How can monitoring and enforcement be made more effective?** Consider;
 - monitoring by the MPA
 - monitoring by the other regulators
 - monitoring by the operator
 - the role of the local community
 - Do local communities and the site operator have a role to play in bringing potential breaches of planning conditions to the attention of the MPA?
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Final Questions, concluding remarks and evaluation



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PAS needs your feedback

- PAS need to know what you think. On reflection, was today actually useful ?
 - 10 minutes of feedback in return for £100s of support
 - We read all comments and use your ideas to change what we do and how we do it
 - Our board use this to decide what we do with our grant. If we don't get positive feedback we are unlikely to continue
 - Please complete the feedback/evaluation form
-

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New event series - Understanding the economic and financial impacts of planning



Come along to our new series of events which look at the direct and indirect financial and economic consequences of planning policy and development decisions. For councillors, senior officers and people with responsibility for finance, regeneration and/or economic development. October and November 2013.

Play 1 2 3 4 5 6

Entries

Make the most of PAS


Councillors' area


Improvement support


Discussion Forum
We have moved to Knowledge Hub
Find out more

Sign-up
Monthly newsletter
Find out about our newsletter [here](#)

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PAS update service

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PAS @pas_team 18h
Planning activity at todays workshop, generating lots of interesting discussion from delegates. pic.twitter.com/kcldn21DFo
Show Photo

PAS @pas_team 21h

Join us in the Knowledge Hub

Exclusively for local authority
councillors and officers

(.gov email only)

Knowledge sharing, updates
and information

What's happening elsewhere?

Ask questions of your peers

Sign up: <https://khub.net>



The screenshot shows the Knowledge Hub interface. At the top, there is a purple navigation bar with the following elements: a dropdown arrow, a logo, and the words 'GROUPS', 'PEOPLE', 'NETWORKS', and 'HELP'. On the right side of the bar, there is a user profile for 'Martin', an envelope icon, a bell icon with a red '3' notification badge, and a search icon. Below the navigation bar, the main content area is divided into two columns. The left column features a green rounded square button with the text 'Effective Planning for Shale Gas'. Below this button, it says 'Last activity - Today'. Underneath, there is a section titled 'You joined' with three options: 'Add to favourites' (with a bookmark icon), 'Subscribe' (with a checkmark icon), and 'Leave the group' (with a red 'X' icon). Below these options, it says 'This is a restricted group' with a red padlock icon. The right column displays the group title 'Effective Planning for Shale Gas - forum for planning authorities' in a large, bold font. Below the title, there is a light blue dashed border box containing the group's purpose and aim. The text inside the box reads: 'This group's purpose is to equip planning authorities to deal quickly and effectively with all aspects of planning applications for shale gas. Our aim as a group is help you to navigate and understand the latest national policy developments; plug you into help & advice from the regulators and signpost useful training, guidance and funding. The group is moderated by the LGA & PAS and is for local government planning professionals and councillors. We are also extending membership to key people working for the regulatory authorities.'



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