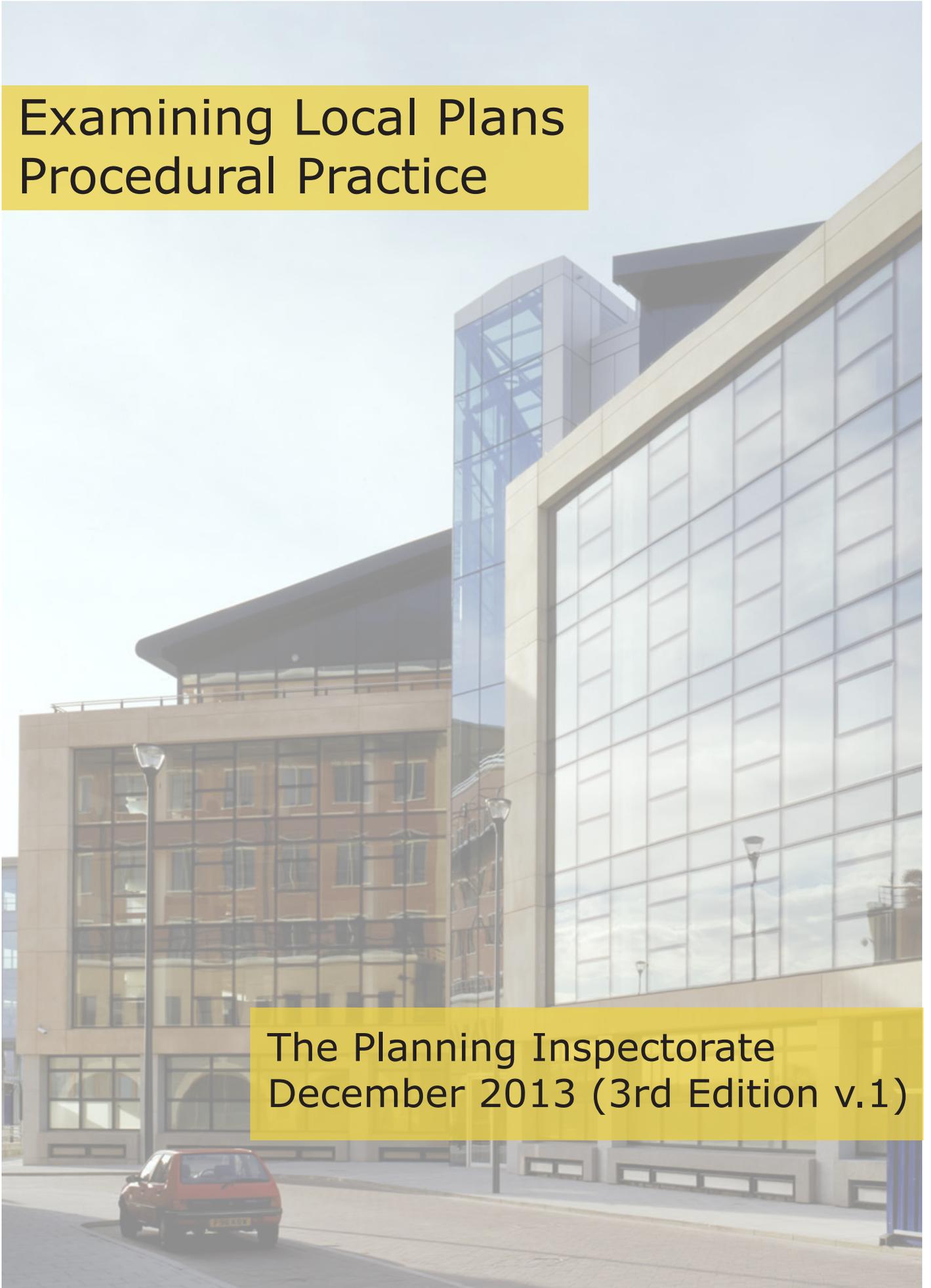




Examining Local Plans Procedural Practice

The Planning Inspectorate
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Glossary

DCLG	Department for Communities and Local Government
DTC Duty	to Co-operate
EM Exploratory	Meeting
LDD	Local Development Document
Plan Local	Plan
LPA	Local Planning Authority
MM Main	Modification
NPPF	National Planning Policy Framework
PCPA	Planning and Compulsory Purchase Act 2004 (as amended)
PHM Pre-Hea	ring Meeting
PO	Programme Officer
Regulations	The Town and Country Planning (Local Planning) (England) Regulations 2012
SCI	Statement of Community Involvement
SCS Sustainable	Community Strategy
SLA	Service Level Agreement

Introduction

1. This document is concerned with the procedural aspects of dealing with the examination of Local Plans (Plans). This third edition provides updated guidance to take account of the Localism Act 2011, the Town and Country Planning (Local Planning)(England) Regulations 2012 (the regulations) and the National Planning Policy Framework (NPPF). It also integrates the guidance on fast track reviews of specific policy issues for a Plan (see Annex 2).

2. This guide is aimed at all those involved in the process of examining a Plan. Whilst the statutory basis for the examination is provided in section 20 of the Planning and Compulsory Purchase Act 2004 (as amended) (PCPA), the detailed procedural aspects of the examination are not prescribed in legislation. This affords some flexibility in administering the examination process to accommodate the needs of all those involved. However, in the interests of consistency, inspectors will have regard to the spirit of other procedures adopted in the planning system. For example, timetables for the circulation of papers and notice given to participants for exploratory or pre-hearing meetings will be based on established good practice and set to achieve efficiency and fairness.

Overview

An Efficient Examination Process

3. The Planning Inspectorate seeks to deliver a challenging examination timetable in recognition of the need to ensure plans are taken through the examination process as quickly as is practicable. In order to seek to align the availability of an Inspector to examine a plan on its submission, it is absolutely paramount that Local Planning Authorities (LPAs) keep the Planning Inspectorate up to date on Plan progress. The Planning Inspectorate's administrative team (Plans Team) should be notified of a Plan's publication as per paragraph 5 of the [Letter to Chief Planning Officers - Preparation and Monitoring of Local Plans 30 March 2011](#) and thereafter, LPAs should maintain regular liaison on plan progress right up to the agreed submission date¹.

4. The formal process under new section 20(7C) of the PCPA may lengthen the post-hearings stage of the examination if it is necessary to undertake sustainability appraisal and public consultation on proposed main modifications to the Plan. The single Local Plans will require additional sitting days with additional time for preparation, sitting and

¹ The Planning Inspectorate also maintains a national database of Local Plans progress covering (i) [strategic issues/'core strategies' \(PDF\)](#); and (ii) [all other plans \(PDF\)](#). This information is updated as local plans complete the examination process, and when the Planning Inspectorate receives updates from local councils on publications and adoptions.

reporting. We shall keep under review the patterns emerging from these single Local Plan examinations, with a view to updating this guidance once we have further experience to share. However, given the current prevalence of separate Plans which have been in preparation for some time, the Planning Inspectorate will continue to aim to deliver fact check reports on most examinations within 6 months from submission. See table 1, page 4 for further guidance.

5. Equally it is essential that LPAs are equipped to move swiftly into the examination process on submission, particularly making sure there is provision of a complete evidence base and ensuring a Programme Officer (PO) is in place. It must be remembered that the examination process starts on submission of the Plan. A Pre-Hearing Meeting (PHM) should only be considered in certain circumstances (see section 8), therefore pre-hearing information and procedural advice should be provided in written format from the Inspector which is part of moving swiftly into the examination process.

6. LPAs should rigorously assess the Plan before it is published under regulation 19 to ensure that it is a plan which they think is sound. The document published should be the document they intend to submit under Regulation 22 to the Planning Inspectorate, subject to any further changes to the draft arising from the Regulation 19 consultation. These changes should be further consulted on and subject to sustainability appraisal before submission. The PCPA specifically provides that a LPA must not submit the Plan unless it considers the document is ready for examination. Main modifications (MM), after submission will only be considered where they are necessary to make the Plan sound and/or legally compliant and where the LPA has formally requested that such modifications be recommended by the Inspector.

7. The Inspector assesses whether the authority has met the duty to cooperate (DTC) and then the whole document for legal compliance and soundness – this means dealing with the main issues which go to the heart of the Plan, and not getting involved unnecessarily with the details of the Plan. The examination must centre on the issues identified by the Inspector having regard to the requirements of the DTC, legal compliance, and whether the four soundness requirements have been met.

8. The Inspector takes control of the examination process from start to finish. He/she will be proactive from the time of appointment in order to ascertain if there are problems with the document which can be identified at an early stage. This may necessitate holding an Exploratory Meeting (EM). The DTC is incapable of modification during the examination and therefore any fundamental concerns on this matter will be explored at the earliest possible stage by the Inspector. For Inspectors, frontloading effectively means that by the time the hearing sessions start they must be thoroughly familiar with the document, how it was prepared and the issues it raises.

9. The examination is based on the Inspector's definition of matters and issues and is not driven by the representations. Hearing sessions will be inquisitorial, with the Inspector probing the issues as opposed to an

adversarial approach. Those who have sought modifications to the Plan and signalled a wish to be heard must be invited to the hearings by the Inspector. If essential, additional parties who did not ask to attend may be invited by the Inspector to contribute specialist expertise and knowledge.

10. Inspectors will draft reports on the premise that they should aim to be brief, avoiding direct reference to representations as far as possible. They will provide clear conclusions in relation to the duty to co-operate, legal compliance and whether the soundness tests have been met. Inspectors will be mindful that the Plan is the LPA's document and will start from the assumption that the LPA has submitted what it considers to be a sound plan.

Unsound Plans

11. The Planning Inspectorate is doing all it can to ensure that plans do not go fully through the examination process only to be found unsound and incapable of being made sound through main modifications. The early scoping work, use of an Exploratory Meeting and, exceptionally, suspension of the examination are aimed at mitigating such an occurrence.

12. An unsound conclusion has important resource implications, both in terms of time spent by the Inspector examining the document and the investment in time and commitment by the LPA and other stakeholders that will have been made up to that point. However, that situation should be much less likely to occur if the LPA has followed the front-loaded consultation procedures and Inspectors are proactive in the initial stages by identifying any fundamental concerns early in the examination process.

Team Working

13. An important feature of the examination process is that it is founded on team working involving the lead Inspector and administrators. Depending on the complexity of a Plan, the lead Inspector may be supported by an Assistant Inspector or specialist advisor. All Inspectors' reports will be subject to peer review in order to achieve the highest possible level of consistency.

The Procedural Timeline - Examination of a Plan

Table 1: Examination with hearing sessions lasting up to 8 days² (where no PHM held)

Note: A more complex Local Plan (such as the new style single Local Plan as per paragraph 153 of the NPPF) is likely to require hearings lasting more than 8 days with additional sitting days with additional time for preparation, sitting and reporting. For these plans the Planning Inspectorate will discuss an appropriately tailored time table with the LPA. We shall keep under review the patterns emerging from these single plan examinations, with a view to updating this timeline once we have further experience to share.

Week	Key Actions
1	<ul style="list-style-type: none"> LPA submits the Plan to the Secretary of State (in practice to the Planning Inspectorate) including a full and complete proportionate, evidence base and regulation 22(c) statement. IMPORTANT: It is essential that the Programme Officer (PO) is in place by submission.
2	<ul style="list-style-type: none"> The Planning Inspectorate will seek to proceed to appointment of the Inspector (which will be dependent on a PO being in place). The Planning Inspectorate will carry out an initial scoping of the Plan (procedure and content) then pass to the Inspector.
3-4	<ul style="list-style-type: none"> The Inspector will commence early appraisal of the Plan and make contact with the PO. The Inspector will look for any fundamental or cumulative flaws in the Plan such as the DTC and write to the LPA in the first instance where there are major concerns. If an exploratory meeting is required the Inspector will advise the LPA through the PO (Note: an exploratory meeting is likely to lead to a consequent delay in the examination timetable). The Inspector will ask the LPA to confirm if it wishes main modifications to be recommended by the Inspector in order to resolve any unsoundness in the Plan or to overcome any problems of

² Examinations that require more than 8 hearing days are likely to be more complex, a PHM may be necessary, and more participants are likely to be involved. Therefore additional time will be required for such examinations.

	<p>legal compliance. [Note: it would not be possible to remedy failure to comply with the DTC in this way].</p> <ul style="list-style-type: none"> • The Inspector will give consideration to the matters and issues for examination, the structure of hearings, allocate participants to hearing sessions and decide what additional material is needed from participants. The date for submission of responses to the Inspector will usually be the same for all parties – the process is to inform the Inspector, not create counter-arguments and rebuttals. • If the Plan is very straightforward and not contentious, the Inspector may be able to deal with the examination by means of written representations, negating the need for hearing sessions. • The LPA (and representors) may be asked to provide papers or responses on specific issues highlighted by the Inspector. However, these papers should not be put forward if not asked for by the Inspector (e.g. if the LPA wishes to produce topic papers, these should be part of the evidence base submitted with the Local Plan). • The Inspector takes charge of the process of what may be submitted. • The Inspector will confirm the hearing start date. The LPA will ensure that the start of the hearing sessions is notified i.e. at least 6 weeks in advance of commencing – regulation 24(1).
5	<ul style="list-style-type: none"> • The PO sends the initial letter to participants, the programme for hearing sessions including matters/issues and circulates the Inspector's Guidance Notes • The LPA and participants will start work on providing any material requested by the Inspector, including statements, the LPA prepares answers to any questions raised by the Inspector in the early correspondence. The LPA and other participants in the examination have around 2-3 weeks to produce their statements for the hearing session.
End Week 7	<ul style="list-style-type: none"> • Responses and statements from the LPA and participants are due. • The PO clarifies and confirms attendance at the hearings.
Week 8	<ul style="list-style-type: none"> • The PO checks that the statements have been received and ensures that they are placed on the

	<p>examination website. It is important that the statements from the LPA and other participants should be available before the hearings commence, so that everyone (including the Inspector) is fully aware of the evidence/points being made.</p>
Week 9	<ul style="list-style-type: none"> • The Inspector ensures that the programme for the hearing sessions including the Matters/Agendas for the hearings is updated as necessary and placed on the examination website. • The PO circulates final detailed agendas for the discussions at each of the hearing sessions to the relevant participants.
10+ onwards Hearings	<p>HEARING SESSIONS COMMENCE.</p> <ul style="list-style-type: none"> • The hearing sessions form an important part of the examination process; all participants should attend on the relevant day. • In consultation with the Council, the Inspector will set out an indicative timetable, if appropriate, for the handling of proposed main modifications and where possible announce an estimated report delivery date at the final hearing session. This will take into account the time required for sustainability appraisal and public consultation on the main modifications and the Planning Inspectorate's internal quality assurance (QA) process. Experience to date shows where there are a large number of main modifications to be taken forward, this will add considerable time to the delivery of the fact check report.
13+ onwards	<p>REPORTING</p> <ul style="list-style-type: none"> ▪ After the hearings have concluded and the Inspector is reporting, no further representations/papers will be necessary unless specifically requested by the Inspector (the examination remains open throughout the reporting period). • Consultation on the proposed main modification(s) will be carried out as required.
Week 18	<ul style="list-style-type: none"> • The report will be subject to the internal QA process which takes about 3 weeks, after which the

	fact check report is sent to the LPA.
Week 21	<ul style="list-style-type: none">• The LPA has 2 weeks to carry out the fact check.
Week 23	<ul style="list-style-type: none">• The Inspector will deal with the fact check matters raised by the LPA.
Week 24 Final Report	<ul style="list-style-type: none">• The Inspector's final report will be dispatched.

Table 2: Examination with hearing sessions lasting up to 8 days including a Pre Hearing Meeting (PHM) where appropriate.

Note: A more complex Local Plan (such as the new style single Local Plan as per paragraph 153 of the NPPF) is likely to require hearings lasting more than 8 days with additional sitting days with additional time for preparation, sitting and reporting. For these plans the Planning Inspectorate will discuss an appropriately tailored time table with the LPA. We shall keep under review the patterns emerging from these single plan examinations, with a view to updating this timeline once we have further experience to share.

Week	Key Actions
1 -2	<ul style="list-style-type: none"> • As above in Table 1
3+ onwards	<ul style="list-style-type: none"> • The Inspector will commence early appraisal of the Plan and make contact with the PO. If a PHM is considered necessary the date of the meeting will be confirmed through the PO. A provisional hearing start date will also be identified at this stage. • The Inspector will look for any fundamental or cumulative flaws in the Plan such as the DTC and write to the LPA in the first instance where there are major concerns. If an Exploratory Meeting is required the Inspector will advise the LPA through the PO (note: an exploratory meeting is likely to lead to a consequent delay in the examination timetable). • The Inspector will ask the Council to confirm if it wishes any main modifications to be recommended by the Inspector in order to resolve any unsoundness in the Local Plan or to overcome any problems of legal compliance. [Note: it would not be possible to remedy failure to comply with the DTC in this way]. • The Inspector will produce initial Guidance Notes for participants to be circulated by the PO and if necessary an agenda for the PHM. • The PO sends the initial letter to representors, together with Inspector’s Guidance Note (and PHM agenda if relevant). If a PHM is not being held the following timetable leading

	<p>up to the hearings may be shortened by about 3 weeks.</p> <ul style="list-style-type: none"> • The Inspector will start giving consideration to the matters and issues for examination, the structure of hearings, allocate participants to hearing sessions and decide what additional material is needed from participants.. • The LPA may be asked to provide papers on specific issues highlighted by the Inspector. However, papers should not be put forward if not asked for by the Inspector (e.g. if the LPA wishes to produce topic papers, these should be part of the evidence base at publication, updated if necessary when the Plan is submitted).
6	<ul style="list-style-type: none"> • PO clarifies and confirms attendance at the hearings. . • LPA prepares answer to any Matters and Issues raised by the Inspector in the early correspondence.
7	<ul style="list-style-type: none"> • The Inspector will complete the draft programme for the hearing sessions and the draft list of Matters and Issues for the hearings and circulate these through the PO as soon as possible.
8 PHM (only if necessary see table 1 where no PHM held)	<p>PRE-HEARING MEETING: Experience indicates that administrative and procedural matters relating to an examination are usually dealt with effectively and efficiently by the Inspector’s Guidance Notes and exchanges of correspondence. Therefore, PHMs are only held where the Inspector considers that there are particular matters relating to the procedure or programming of the examination that need to be aired at a public meeting.</p> <ul style="list-style-type: none"> • <u>The aim is to hold the PHM around 8 weeks after submission</u> (6 weeks before hearing sessions start). • It is important that all those who wish to be involved in the examination, particularly those attending the hearing sessions attend the PHM. At the PHM, the Inspector may invite comments from the participants on the Matters and Issues identified for the examination and on the hearings programme.

	<ul style="list-style-type: none"> The LPA should ensure start of the hearing sessions is notified by this stage i.e. at least 6 weeks in advance of commencing – regulation 24(1).
9+ onwards	<ul style="list-style-type: none"> If relevant, PO should circulate any revised programme for the hearing sessions, any revised Matters and Issues document, and Notes of the PHM. The LPA and participants will continue work on providing any material requested by the Inspector in writing (or at the PHM, if applicable). The Inspector continues to take charge of process of what may be submitted. The date for submission of responses to the Inspector will usually be the same for all parties – the process is to inform the Inspector, not create counter arguments and rebuttals. The LPA and other participants in the examination have around 3 weeks after any PHM to finalise and submit their statements for the hearing sessions.
12	<ul style="list-style-type: none"> Responses and statements from LPA and participants due. The PO checks that the statements have been received and ensures they are placed on the examination website. It is important that the statements from the LPA and other participants should be available well before the hearings commence, so that everyone (including the Inspector) is fully aware of the evidence/points being made.
13	<ul style="list-style-type: none"> The Inspector ensures that the programme for the hearing sessions including the Matters/Agendas for the hearings is updated as necessary and placed on the examination website. The PO circulates the final detailed agendas for the discussions at each of the hearing sessions to the relevant participants.
14+ onwards Hearings	<p>HEARING SESSIONS COMMENCE.</p> <ul style="list-style-type: none"> The hearing sessions form an important part of the examination process; all participants should attend on the relevant day. In consultation with the Council, The Inspector will set out an indicative timetable, if

	<p>appropriate, for the handling of proposed main modifications and announce an estimated report delivery date at the last hearing session. This will take into account the time required for sustainability appraisal and public consultation on the main modifications and the Planning Inspectorate's internal QA process. Experience to date shows where there are a large number of main modifications to be taken forward, this will add considerable time to delivery of the fact check report.</p>
17+ onwards Reporting	<ul style="list-style-type: none"> • After the hearings have concluded and the Inspector is reporting, no further representations/papers will be necessary unless specifically requested by the Inspector (the examination remains open throughout the reporting period). • Consultation on proposed main modifications will be carried out as required.
Week 23	<ul style="list-style-type: none"> • The report will be subject to the internal QA process. This process takes about 3 weeks after which the fact check report is sent to the LPA.
Week 26 onwards Fact Check dispatch	<ul style="list-style-type: none"> • The LPA has 2 weeks to carry out the fact check.
Week 28 Comments from LPA	<ul style="list-style-type: none"> • The Inspector will deal with the fact check matters raised by the LPA.
Week 29 onwards Final Report	<ul style="list-style-type: none"> • The final report will be dispatched to the LPA.

THE EXAMINATION

Section 1: Submission

Initial Tasks

1.1 The LPA will publish the Plan for public consultation but the examination process does not start until the published Plan is submitted. On submission the LPA submits the Plan³ to the Secretary of State (in practice the Planning Inspectorate) including a complete, proportionate evidence base and regulation 22(c) statement.

1.2 From the Planning Inspectorate's perspective it is of paramount importance that the PO is established in post by submission stage. And it is preferable that he/she is involved in handling the representations at publication stage via the LPA database in order to facilitate the organisation of the several stages of the examination in conjunction with the LPA and the Inspector. The PO and LPA are responsible for the basic requirements of the database. It should be noted that a poor database can delay examinations.

1.3 Provided that the LPA has met the statutory and procedural requirements on submission, the Planning Inspectorate will appoint the Inspector and will reserve the Inspector's time. The Plans Team will assist the Inspector in setting the programme for examining the Plan, allowing for the initial desk-based examination time, the conduct of a PHM if necessary, hearing sessions and reporting.

1.4 The Inspector will be allocated time according to the complexity of the Plan. The number of Inspector days required to examine a plan will vary according to a range of factors including the complexity of the plan's subject matter and the level of interest that it has generated. The Plans Team can offer advice to LPAs on likely time requirements and indicative costs for examinations of individual plans.

1.5 In general at least half an Inspector's time on examining a plan is likely to be spent on the initial examination of the document and preparation for the hearing sessions. Plan examinations typically sit for between 3 and 8 days (some may have no hearing sessions). Additional sitting days will be necessary for more complex (or controversial) plans. This is particularly relevant where LPAs are bringing comprehensive Local Plans under paragraph 153 of the NPPF dealing with strategic policies, site allocations and development management policies all in one document. Early experience of post-NPPF comprehensive Local Plans suggests that the hearing days required can range from 10-20 days. If the hearing

³ The submitted Plan may exceptionally include an addendum setting out focussed changes to the Plan, produced following the regulation 19 publication. Such focussed changes should have been the subject of appropriate consultation. References in the guide to the submitted Plan should be read to include any such addendum, where relevant. It is no longer necessary to include what were previously termed minor changes in any such addendum. See also paragraphs 2.3-2.4 below.

sessions are carefully structured around the main matters and issues, reports should flow easily and logically. This takes into account that the reports do not refer to individual representations and are focussed on the critical matters and issues that are fundamental to the soundness of the Plan.

Early Scoping

1.6 Within the first 2 weeks the Planning Inspectorate will carry out early scoping of the Plan both in relation to procedure and content which is passed on to the Inspector.

1.7 Administrators will do initial checks on the Plan and consider whether it meets regulatory requirements (subject to the Inspector's consideration).

1.8 If the Plan raises complex technical issues, consideration will be given to the need for any specialist support to the lead Inspector, which may involve using an Assistant Inspector or engaging an external specialist advisor. The support that an Assistant Inspector or advisor may provide can be wide-ranging but may include briefing on technical/specialist issues; advising on matters and issues for consideration at the hearing session(s) and assistance with the consideration and drafting of recommendations for the Inspector's report.

1.9 The examination process allows considerable flexibility for the way in which events may unfold. It enables the Inspector to hold procedural meetings (before the hearings commence) or further hearing sessions if they are needed at any stage throughout the process of the examination. In view of this flexibility the Inspector will keep in close contact with the Plans Team and PO to ensure, if any variation from the agreed programme is necessary, this is communicated to all interested parties.

Section 2: Preparation and Initial Examination

2.1 By week 3 the Inspector will commence early appraisal of the Plan and make contact with the PO. This enables the Inspector to begin to establish working arrangements. The Inspector will confirm the provisional start date for hearings and if a PHM is required. If the Plan is very straightforward and not contentious, hearings may not be necessary. The PO will send an initial letter to representors to make contact and set out the tentative scheduling of the examination.

2.2 More in-depth reading of the documentation during this period should enable the Inspector to identify the Matters and Issues (ensuring there are no fundamental or cumulative flaws⁴) and establish the structure of the hearings. In order to avoid abortive work and unnecessary cost to the LPA, a primary focus of the Inspector's initial preparation will be to ascertain if the LPA appears to have complied with the DTC (sections 33A and 20(5)(c) of the PCPA). The initial work will also include allocating participants to hearing sessions and deciding what additional material is needed from participants.

2.3 Where an addendum of focussed changes has been submitted with the published Plan, the Inspector will also make an early assessment of the nature and status of the addendum i.e. whether the changes would not alter the strategy of the Plan, have been subject to public consultation and whether they have been subject to sustainability appraisal where necessary. If the Inspector is satisfied on all of these points, the addendum can be considered as part of the submitted Plan and the Inspector will make this clear in the initial guidance note (or at the PHM if one is held). If this is not the case, the Inspector will usually treat these proposed changes in the same way as any other proposed main modification at post-submission pre-hearing stage; this means that they would need to fall under the terms of section 20(7B) and (7C) to be taken forward.

2.4 Given that the LPA can make minor modifications to a Plan on adoption, it is not necessary for a submission plan to be accompanied by a schedule of minor changes. If the LPA considers that changes are minor it does not need to subject them to the formal examination process. The LPA will be accountable on adoption for the scope of these minor changes.

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Identifying Matters and Issues

⁴ Cumulative flaws could indicate that the Inspector might need to recommend so many modifications to the submitted Plan that it would result in a very different document to that submitted. This would be likely to compromise the community involvement and sustainability appraisal considerations.

2.5 An early task for the Inspector is to establish the Matters and Issues (also known as the matters, issues and questions) for investigation in the examination. The terms are used as follows:

- matters - examples of which are housing provision, employment land provision, settlement strategy or flood risk;
- issues - or the key points on which decisions about the soundness of the document will depend; and
- questions - these are related to the issues and will be investigated at the hearings part of the examination or may in whole or in part be dealt with through correspondence at an earlier stage where this would be appropriate (e.g. queries about matters of fact).

2.6 The examination will be structured around the issues that the Inspector has identified are of critical importance for the soundness of the Plan. The summary of main issues raised in the representations, which is provided by the LPA in the regulation 22(1)(c) statement, is particularly helpful for the Inspector in drawing up the Matters and Issues for examination. However, while the subject matter of the representations will be taken into account, it will not dictate the structure of the examination because the absence of representations on a matter is not a guarantee of soundness (and vice versa). Instead, the structure must derive from the Inspector's proactive and inquisitorial approach to considering soundness. The Inspector will take charge of the examination and will not spend time at the hearings (subject to the right to be heard) considering points which will not help a decision as to whether the Plan is sound.

Fundamental/Cumulative Flaws and Exploratory Meetings

2.7 The Inspector will seek to identify any fundamental or cumulative flaws at the first possible opportunity. This will avoid wasted time and money if the submitted Plan has major problems which cannot be rectified. The early work may identify key issues or concerns that the Inspector will need to discuss prior to any hearing session. Because the examination starts on submission there is scope for the Inspector to hold an early EM(s), to clarify any Matters and Issues which may affect progress of the examination.

2.8 If the Inspector forms an early view that the submitted Plan may have serious shortcomings that indicate unsoundness, this will be raised with the LPA. The concerns will be raised initially in writing (via the PO) and if not subsequently resolved by an exchange of correspondence, an EM will be arranged.

2.9 Inspectors are unlikely to reach any conclusive findings of unsoundness at this stage but may give an indication of their concerns at an EM. It would be difficult for an Inspector to reach a conclusive finding prior to holding the

hearing sessions where the evidence can be properly tested. Exceptionally, the Inspector may consider that the examination cannot be completed without additional work being undertaken (such as the need for further sustainability appraisal of alternative options). This may require consideration of a suspension of the examination or, in the worse case scenario, withdrawal of the Plan.

2.10 Further guidance on the procedures relating to an EM and suspension is provided in Section 8 'Exceptional Procedures' of this guide.

Allocating Participants to Hearings

2.11 The right to appear and be heard is limited to those persons defined in section 20 (6) of the PCPA i.e. any person(s) that has made representations seeking a change to the Plan. However, the Inspector is not precluded from inviting anyone to appear and be heard at a hearing session(s) where he or she thinks that person is needed to enable the soundness of the Plan to be determined (see Section 8, paragraph 8.27).

2.12 The Inspector will begin by allocating those who wish to be heard to one of the main Matters or Issues. Representors with an interest in similar issues, policies and geographical areas will be invited to the same hearing session. The PO will assist the Inspector in the allocation process. Anyone who wishes to be heard but whose concerns do not fall within the main issues will be allocated to a minor matters session at the end of the hearings. The PO should seek to explain to such representors that their concerns do not go to the heart of the Inspector's issues, to give them an opportunity to review whether they still wish to be heard or have the matter dealt with by written representations.

2.13 Bodies such as the Highways Agency or Environment Agency may not have sought to attend, but they may have specialist information or expertise that the Inspector needs to explore. However, invitations to such organisations who have not sought to attend the hearing sessions will be issued sparingly, taking account of the resource pressures upon them.

2.14 Copies of the matters, issues and questions for each hearing session will be sent out as soon as possible, usually by week 5, to all representors, together with a list of the participants who are to be invited to each session. This will enable the PO to clarify and confirm attendance at the hearing sessions. The Inspector will seek to finalise the Matters and Issues and the hearings programme as soon as possible and not normally later than week 8.

Additional Written Material

2.15 Additional written material should not be put forward if not requested by the Inspector. For example, if the LPA wishes to produce topic papers, these should form part of the evidence base submitted with the Plan.

Similarly, representors should ensure that all their evidence is provided with their original representation and should not expect an opportunity to submit further material during the examination.

2.16. LPAs and other participants should await specific instructions from the Inspector about what additional material, if any, is required before the hearings commence. In deciding this, the Inspector will be guided by what he/she considers to be the critically important issues for the soundness of the Plan and the scope and content of the material already submitted. For example, the Inspector may identify soundness issues that have not been raised in the representations, in which case additional written material may be sought.

2.17 The Inspector will develop the list of issues and questions on which a written statement is invited from representors. The Inspector may issue a discussion note if necessary to set out the context for the statements. Where appropriate, the Inspector may seek statements of common ground from the parties to help focus the issues. However, the fact that the parties may agree on certain issues will not prejudice the Inspector's ability to probe these issues further to his/her satisfaction.

2.18 Any additional written material produced by participants in response to a specific request from the Inspector will be placed on the examination website. In order to avoid a situation where the parties make further submissions countering the arguments of others (rather than focus on what the Inspector has requested), the date for submission of responses to any particular issues should normally be the same for all parties.

Guidance Notes

2.19 The Inspector will produce an initial Guidance Note for representors which will be circulated at an early stage (from week 3 onwards). This will outline the procedures that will be followed in the examination and in preparation for any hearing sessions. This usually eliminates the need for a PHM and helps representors to get to grips with the procedures.

2.20 The Guidance Note will normally:

- explain that the Inspector has been appointed to carry out an independent examination of the Plan to determine legal compliance and soundness and subsequently produce a report to the LPA with binding recommendations (if adopted);
- clarify the basis for the examination; make clear the status of an addendum of suggested changes if one has been submitted with the Plan; if the Inspector accepts the addendum as part of the submitted Plan, the Inspector will confirm that he/she will take into account the representations that have been made on the addendum;

- explain that if at any stage during the course of the examination the Inspector considers that main modifications are likely to be required to the Plan to address potential unsoundness or legal compliance matters, the Council will be asked if it wishes to invite the Inspector to recommend the necessary MMs;
- explain the role of the PO⁵ as an impartial person assisting the Inspector with administrative and procedural matters; the PO acts as the channel of communication outside the hearings between the Inspector, the LPA and members of the public, he/she makes the arrangements for the hearing sessions and liaises with everyone involved to ensure their smooth running; the PO also ensures that all the documentation connected with the examination is received, recorded and placed on the examination website, and that the examination library⁶ is maintained;
- outline the procedures to be followed during the examination including the hearing sessions process;
- make clear that all the evidence will be considered and that written representations carry as much weight as oral evidence;
- explain the role of the Inspector's list of matters and issues in defining the subject matter of the examination;
- confirm that statements from representors on the Matters and Issues should only be submitted if requested by the Inspector and must be focussed on the defined issues and questions; where the Inspector considers it necessary, he/she will invite participants in hearing sessions to submit statements of limited length (not more than 3,000 words is appropriate); the Inspector may invite representors who have decided not to attend the hearings to submit written statements as well, but any such requests will be limited to those who have addressed the particular matter being discussed and have sought a change to the plan in their original written representation;
- set a deadline for return of statements which will normally be around 2 weeks before the start of the first hearings; the Inspector and participants must have sufficient time to absorb the contents of the statements; late submission of statements causes difficulties for all parties and only in exceptional circumstances will the Inspector consider rearranging any hearing sessions to accommodate late submissions;

⁵ Guidance on the role of the PO can be found on the Planning Inspectorate's page on the Planning Portal. The Inspectorate also provides PO training sessions for LPA employees - for further information please email plans.admin@pins.gsi.gov.uk

⁶ The Examination Library should contain the documents that form the evidence base for the Plan together with existing plans, the NPPF and any other relevant national guidance (and in London, the Spatial Development Strategy), committee reports, research reports and any other information likely to be used during the examination.

- confirm that the LPA should submit its statements within the same deadline as other participants; the examination process no longer centres on 'responding to objections' and like everyone else, the LPA is invited to address the Inspector's Matters and Issues; however, in some instances the Inspector may decide that there are advantages in having a response from the LPA to particular statements from representors and in these circumstances a date for the response will be set; and
- inform everyone that the examination programme may change and participants must keep in touch with the PO; the Inspector will emphasise the need for the examination timetable to be met.

2.21 If a self-assessment document has not been provided on submission, the Inspector will seek written confirmation from the LPA that the procedural and other matters have been appropriately addressed, in particular that:

- the Plan has been prepared in accordance with the statutory procedures;
- the requirements for sustainability appraisal have been met;
- any requirement for appropriate assessment under the Habitats Regulations were met before publication;
- in London, that the Mayor has indicated general conformity with the London Plan (note - the Inspector is entitled to take his/her own view on conformity); and
- a statement setting out how the LPA has satisfied the requirements of the DTC has been provided.

Section 3: Before Commencement of the Hearings

3.1 By this stage the LPA and participants will have started work on providing any additional written material requested by the Inspector. The LPA and other participants can expect around weeks 5-7 (assuming a PHM has not been held) to produce their statements for the hearing sessions. As soon as possible after the deadline for the receipt of statements the PO will ensure that they are available on the examination website.

Agendas/Notes for Hearing Sessions

3.2 In many cases, the agenda for hearings will be the same as the Inspector's list of issues and questions circulated earlier for the preparation of statements and therefore there will be no need to circulate another paper. However, if the Inspector wishes to identify further questions in advance of those that he/she may raise on the day, or if some points are satisfactorily clarified by the written submissions, or if it would be appropriate to change the order in which issues are considered, the agenda for the hearings may need to be reviewed by the Inspector.

3.3 The Inspector's agenda will create a strong focus on the day by identifying a clear sequence of issues and questions that will need further examination, and it may include a brief summary of the common themes of agreement/ disagreement emerging from the participants' statements. In some cases the Inspector may also circulate a note in advance of the relevant hearing session, for example if it would be helpful to clarify any technical matters such as the methodology used in a housing needs assessment study. In some instances a technical seminar may be held in advance of the hearing sessions (see below under Section 8 Exceptional Procedures).

3.4 Where relevant, the PO will circulate the Inspector's note/detailed agenda for the discussion at each of the hearing sessions to all the participants concerned. This will normally be available about one week before the session and will be placed on the examination website.

Section 4: Hearing Sessions

Managing the Hearing Sessions

4.1 The hearing sessions form an important part of the examination process. By this stage the Inspector will have completed the desk-based examination of the Plan and will look to the hearing sessions to obtain the clarification that he/she needs on the remaining issues that are fundamental to the soundness and/or legal compliance of the Plan.

4.2 At each hearing the Inspector will inquire into and lead a discussion with the LPA and the invited participants on the issues identified in advance. Experience suggests that the number of participants should not exceed 20 wherever possible. The most appropriate room layout for the hearing session(s) will comprise a rectangular table around which the participants are seated. Apart from the LPA who will normally be allocated two seats, there should be one seat per representor. Any requests for additional seats will be treated on their merits (in terms of the potential contribution of a person's evidence to the Inspector's understanding of the issues and having regard for overall numbers). Any additional representatives will usually be expected to sit behind the lead speaker and 'hot-seat' at an appropriate time if necessary.

4.3 Parties making late requests to attend hearings who have not submitted representations in accordance with the statutory timetable for consultation responses (the specific dates are set by the LPA), will have no legal right to be heard, although they may attend as observers. Inspectors will adopt a robust approach and refuse to hear late representations that are not made in accordance with the provisions of regulation 20. LPAs should confirm that the representations submitted with the Plan are legally compliant with the regulations. Representors who are supporting the submitted Plan do not have a right to appear. As previously noted, the starting point for the examination is the assumption that the LPA has submitted what it considers to be a sound plan. Supporters will not be seeking a change to the Plan and therefore a firm line will normally be taken against supporters' requests to appear since their position is represented by the LPA. However if for example it would help to inform the Inspector about an issue that affects the soundness of the Plan, the LPA may wish to include supporters of the plan as part of their team for a specific matter.

4.4 As the hearing programme will be based on group sessions, parties wishing to appear will be expected to attend the sessions relevant to their representations or to send a representative if they are unable to attend on the specified day. Failing this, where all reasonable steps have been taken to facilitate attendance, they will have to rely on written representations.

4.5 The hearings stage of the examination is intensive and places significant demands on the Inspector, the LPA and other participants. For this reason hearing sessions will usually be limited to 3 days per week to

allow adequate preparation time between sessions. Specific arrangements will vary depending on the nature of the Plan and on whether an Assistant Inspector has also been appointed. In cases where hearings extend for more than 9 sitting days (2-3 weeks), such as the examination of a comprehensive Local Plan, the Inspector is likely to programme a one week break to allow adequate time for preparation. This also recognises that LPAs in particular may need time to prepare responses to matters raised in earlier sessions.

Opening the Hearings

4.6 All documentation at the hearing sessions will be taken as read. As previously noted, the Inspector will already have determined the Matters and Issues on the basis of all the evidence before him/her. It is therefore unhelpful to the process to submit further unsolicited evidence. The Inspector will exercise his/her discretion in turning away unsolicited material that is not relevant to the soundness of the Plan.

4.7 On the first day, the Inspector will:

- open briefly, setting out the purpose and character of the hearing sessions as well as explaining the potential outcomes of the examination;
- explain clearly the basis on which MMs to the Plan can be recommended if formally requested by the Council; and
- confirm that minor changes, known as additional modifications, can be made by the LPA on adoption and that they are not within the scope of the examination.

4.8 Unless this has already been established to the Inspector's satisfaction, the first matter will usually be to confirm that the legal compliance issues have been met. Thereafter the hearing sessions will follow the agenda set by the Inspector.

Formats for Testing the Evidence

4.9 The Inspector will decide the procedure at the hearings. He/she will reinforce the message that there should be no formal presentation of evidence and only exceptionally will formal cross-examination be used. Representors who have sought changes to the Plan and indicated a wish to speak at the hearing sessions in their formal representations (made within the statutory timetable) must be given the right to be heard. However, the Inspector determines the format for testing the evidence and must at all times adopt an inquisitorial approach.

4.10 The most common format will be hearing sessions to which a number of participants who have concerns regarding the same matter are invited. Hearings are the most efficient mechanism and should be capable of being used in examinations for all types of plan.

4.11 Sometimes respondents seek to have their views put by a barrister or solicitor, usually accompanied by a specialist such as a planning consultant. Lawyers have adapted well to the informal hearings procedure, sensing when best to contribute themselves and when to allow the specialist to comment. Lawyers will not however be permitted to adopt a formal 'advocacy' role as a matter of course, as this can unnerve other participants and undermine the principle of equal partners in the discussion.

4.12 There may be occasions when the particular skills of lawyers/advocates need to be used. The hearing session format allows the Inspector to adjust proceedings to suit the Matters and Issues being discussed. It may be appropriate that part of the hearing session allows for formal presentation of evidence followed by cross-examination and re-examination. This will only happen in very exceptional instances where the Inspector is convinced that a formal approach is essential for adequate testing of the evidence. If any participant (including the LPA) wishes the Inspector to consider dealing with a particular subject using this formal approach, he/she must be prepared to make a strong case for this. This is most likely to be appropriate where the Inspector considers that the issues raised are highly technical or complex. The final decision about whether a formal approach is appropriate rests with the Inspector. Participants will be informed in advance of the particular session that cross-examination is to be permitted on a particular subject.

4.13 Consequently there will usually be no need for a representor to employ an advocate to present his/her case although there is no reason why barristers or solicitors should not take part in the discussions on the same basis as any other participant.

4.14 LPAs may find that using advocates is helpful at earlier stages in the preparation process. Professionals familiar with presenting cases may prove useful in reviewing the adequacy and appropriateness of the evidence base and marshalling the evidence to assist the Inspector.

Hearing the Participants

4.15 The discussion must be guided by the Inspector so that the issues are probed thoroughly and the evidence is tested. This is not an opportunity for participants simply to recite cases they may have already submitted. The Inspector will adopt the role of a neutral but firm inquisitor, opening the discussion on each issue and usually posing a question to a participant who has a particular interest in that issue in order to start the debate. Ideally, different parties should be identified to start the discussion on subsequent points, thus providing reassurance that everyone will have an opportunity to have their say. The Inspector should direct the hearing by drawing participants into the debate in a logical order, reflecting their likely contributions. The LPA will be invited to answer questions and contribute to the discussion of the issues at appropriate times. When the discussion has reached the point at which no more is likely to be said to assist the Inspector's conclusions on

soundness, the Inspector will move on to explore the next issue.

4.16 Group sessions dealing with specific issues help to keep the focus on the Inspector's soundness agenda rather than on individual representations seeking a change to the Plan. In a session relating to a single matter (e.g. employment land provision), it will often be possible to accommodate both participants with views about the general soundness of the policy and those who have concerns about particular locations.

4.17 Where the Inspector wishes to pursue a matter of soundness not raised in the representations, it may be necessary to programme a hearing session at which he/she can question the LPA. While there may be no other participants, this session, like all the others, would be open to the public. In practice, it would be more appropriate to attach such a session to another one in which other matters or issues are being discussed.

Large Numbers of Participants

4.18 If a large numbers of persons (in excess of twenty) wishes to be heard at a particular session, the Inspector will consider ways of reducing the number. Otherwise it may be difficult for the Inspector to direct the discussion, exercise fairness in hearing participants and take notes of the proceedings. As such there is a need to be pragmatic and the Inspector's approach will be to:

- remind those concerned that written representations carry the same weight as oral evidence; on this basis representors should think carefully whether there is a need to appear;
- ask those with very similar views to appoint a single spokesperson;
- consider sub-dividing the matter for discussion; and
- determine if it is necessary to hold more than one session on the same issue; representors scheduled for the second session may be encouraged to observe the first one in order to acquaint themselves with procedures and format; it may become apparent that it is unnecessary for the Inspector to hear arguments twice (leading some to decide against attending the later hearing session); the PO should be on hand to assist in discussing this with representors.

4.19 Where there are large intensive sessions, Inspectors may need the assistance of a note-taker. The Inspector may be supported by an Assistant Inspector or another officer of the Planning Inspectorate which will make note taking much easier but this is unlikely in most cases. If the Inspector has concerns about note-taking and needs assistance, he/she may request in advance that the LPA identifies a suitable person to assist. Notes taken are merely intended as an 'aide-memoir' for the Inspector and are not examination documents.

Post-Submission Changes Initiated by the LPA

4.20 The Inspector will take the published Plan (and if relevant, the addendum submitted with the Plan to address matters arising from the public consultation on the Plan at regulation 19 stage) as the final word of the LPA on the Plan. Therefore, there is a very strong expectation that further LPA-led changes to the Plan will not be necessary and this is a key premise of delivering the indicative examination timetable. Provision for changes after submission of the Plan is to cater for the unexpected. It is not intended to allow the LPA to complete or finalise the preparation of the Plan. In order for the Inspector to take forward any change (in effect a proposed main modification) initiated by the LPA (or any other party in the examination), the requirements of section 20(7B) and (7C) of the PCPA must be met. For example, a LPA's change of preferred approach to a policy (including a site allocation) could not be accommodated unless the policy/site as submitted is, in the Inspector's view, unsound or not legally compliant and the proposed change initiated by the LPA would make the Plan sound/compliant.

4.21 Any such proposed change should, where appropriate, be subject to the same process of publicity and opportunity to make representations as at regulation 19 stage and it would usually be handled as part of the section 20(7C) process set out in paragraphs below. If the proposed change were to alter the thrust of a policy, extend the range of development to which a policy applies, delete a policy or introduce a new policy, two very important considerations need to be borne in mind. Firstly, the proposed change must not undermine, or possibly undermine, the sustainability appraisal process that has informed the preparation of the Plan. Secondly, it should be subject to adequate community engagement. If the LPA has taken appropriate steps to address these matters, the proposed change may in some instances be acceptable as set out in the paragraph above.

4.22 This process may generate new representations. If so, in the interests of fairness, the Inspector provides an opportunity to appear at the yet to be held hearings to those who seek an amendment which follows directly from the LPA's proposed post-submission change(s)⁷ to the Plan.

4.23 Where the LPA proposes such changes, the Inspector will expect all the relevant material to be made available without the need for undue delay to the examination timetable. Guidance on the consideration of and procedures for suspension of the examination in limited circumstances, to allow further work to be carried out by the LPA, is provided in Section 8 'Exceptional Procedures' of this guide.

⁷ Similarly, in circumstances where the LPA has published a Plan that has been subject to any material change post publication but prior to submission (which will be set out in an addendum/focussed change), the Inspector will take into account representations made about any such change and hear those that are exercising their right to appear at the hearing sessions.

Main Modifications to the Plan

4.24 The Inspector examines the Plan (including any addendum he/she accepts) 'as submitted'. Where the Inspector identifies that there may be a need for MMs to the Plan in order to resolve problems that would otherwise make the Plan unsound or not legally compliant, the nature and likely extent of the MMs should be fully discussed at the hearings. These may consist of redrafted text, the omission of a policy or section of text (or the inclusion of a new one). The purpose of the discussions is for the Inspector, the LPA and participants to gain the fullest possible understanding of any modifications that may be required to make the Plan sound and legally compliant. If the LPA has not already done so, it will be invited by the Inspector to make a formal request under section 20(7C) of the PCPA. In many cases it is likely that the LPA will suggest the proposed MMs (see also paragraphs 4.20-4.21 above). However the Inspector will reserve the right given to him/her by the LPA to amend or add to the schedule of suggested MMs as necessary in order to make the Plan capable of adoption.

4.25 If the Inspector considers that the Plan may require MMs to make it sound/legally compliant, he/she must be satisfied that requirements for public consultation and sustainability appraisal have been or will be met with regard to the modifications (as set out in paragraph 4.21 above). Therefore, usually before concluding the scheduled hearing sessions but if this is not feasible, as soon as practical thereafter, the Inspector will set out arrangements and seek agreement on a timetable for any necessary sustainability appraisal work and public consultation.

4.26. The precise arrangements for public consultation on any proposed MMs may vary from case to case but there are a number of important principles that apply throughout:

- it should be made clear that the consultation is about proposed MMs that are put forward without prejudice to the Inspector's final conclusions on the Plan and that all representations made upon them will be taken into account by the inspector;
- the consultation document should include all proposed MMs, whether suggested by the LPA or put forward by the Inspector; the key requirement is that the Inspector should be reasonably satisfied at this point that the proposed MMs are necessary to rectify the unsoundness and/or legal compliance problem(s) that have already been identified;
- the Inspector will not contemplate recommending a MM to remedy unsoundness or legal non-compliance unless satisfied that it would not prejudice the interests of any party by providing them with a fair opportunity to comment;
- the scope and length of the consultation on proposed MMs should reflect the consultation at regulation 19 stage;
- the general expectation is that issues raised on the consultation of the draft MMs will be considered through the written

- representations process and further hearing sessions will only be scheduled exceptionally; and
- in very limited circumstances, the Inspector may be satisfied that no party would be prejudiced by a possible new MM (or the amendment of one that has already been publicised) that he/she is contemplating towards the end of an examination; for example, this may be because the scope of the consultation that has already been undertaken on related MMs has adequately addressed this point or because a matter is being deferred to another plan.

4.27 There could be circumstances where the Plan is so flawed that it is in effect irreparable; for example, the MMs that would be required might be so significant or extensive that they would amount to a re-write of the Plan. In this case an Inspector would have great difficulty in complying with a section 20(7C) request and in any event to do so would not be within the meaning of the Localism Act 2011. There is no discretion to reject a request under section 20(7C) but in practice in these circumstances, the Inspector would indicate to the LPA that such a request would be inappropriate. Withdrawal of the Plan would normally be expected in such cases.

4.28 There could also be circumstances where, for example, a LPA makes a request under section 20(7C) but does not wish to accept MMs on certain matters, does not produce evidence to inform the modifications, or fails to carry out the necessary sustainability appraisal or public consultation on the proposed modifications. In such cases, the Inspector might need to conclude that the section 20 (7C) requests has been implicitly withdrawn by the LPA, since there is no provision for a LPA to make a conditional or partial request. In this event, no MMs could be recommended that would make the Plan sound/legally compliant. The implications for the Inspector's recommendations on the Plan would be drawn to the LPA's attention and withdrawal of the document would normally be expected.

Concluding the Scheduled Hearing Sessions

4.29 Bearing in mind the implications of any further work that needs to be undertaken by the LPA and public consultation requirements, the Inspector may be able to announce at the end of the last hearing session the approximate date for delivery of the report to the LPA for a 'fact check'⁸. This will be without prejudice to the outcome of any public consultation and further work referred to above. In due course the date will be confirmed by the Plans Team in a letter to the LPA. When estimating the date for the fact check report, Inspectors will add at least 3 weeks for the internal QA process as set out in Tables 1 and 2 above.

4.30 A practical problem can occur if the PO is released from post at the end of the hearing sessions as there will be no direct channel of communication with the Inspector. Local authorities are requested to keep

⁸ Further information on the fact check stage is provided in Section 6.

the PO in post, at least on a part-time or 'as needed' basis after the hearing sessions until the Inspector's fact check report is delivered. If the PO will be unavailable, the authority must ensure that an administrative officer will be able to handle correspondence and provide a point of contact. The Plans Team in the Planning Inspectorate must be informed if any problems arise relating to the PO's availability.

Further Written Material and Exploratory Meetings

4.31 Where necessary, the Inspector will seek written clarification of any Matters and Issues raised during the hearings part of the examination. However, the Inspector will only request additional information that is essential to inform his/her conclusions on the soundness/legal compliance of the Plan. Unsolicited material and further statements after the last hearing session that have not been requested by the Inspector may not be accepted.

4.32 The examination remains open while the Inspector is writing the report and if necessary the Inspector may hold further sessions during the reporting period. This would only occur if absolutely necessary, for example, where a fundamental soundness issue has not been resolved or a hearing is necessary exceptionally on a representation made on a proposed MM.

Section 5: The Inspector's Report

Key Principles for Reporting

5.1 In drafting the report, the Inspector will concentrate on:

- reaching clear conclusions, backed by reasoned judgments, on the compliance requirements of the PCPA including the duty to co-operate, the regulations and meeting the requirements of soundness; and
- setting out (where requested to do so by the LPA) precise main modifications to the policies or supporting text that are required to overcome any correctable aspect of unsoundness/legal non-compliance identified by the Inspector.

5.2 The Inspector will start from the premise that the report should be as short as possible while ensuring it is adequately reasoned to explain and justify the conclusions. It is important to remember that the Inspector has no power to recommend improvements to the Plan. In many instances representations are made about matters that do not undermine the soundness of the Plan. The Inspector will not make recommendations about these matters even if he/she feels that the representation is well-founded. The Plan is the LPA's document and the Inspector will only make recommendations on MMs that are necessary to make the Plan sound and legally compliant. Inspectors are required to ask themselves whether the plan would be unsound/legally non-compliant if the MM was not made. If the answer is no, the proposed MM is not required and will not be recommended. Minor changes, known as additional modifications, can be made by the LPA on adoption without the need to be examined.

5.3 Since the examination of a plan is not an inquiry into objections, reports will not summarise the cases of individual parties, will avoid as far as possible any direct reference to specific representations and should not describe discussions at the hearing sessions. The report will explain why the Inspector, based on a consideration of all the evidence and his/her professional expertise and judgement, has reached a particular view on legal compliance, including the DTC, and soundness.

Structure of the Report

5.4 The report will be sub-divided into the following key sections:

- *Executive Summary*: this makes clear the outcome of the examination and where appropriate, summarises the MMs that are recommended;
- *Introduction*: this sets out the purpose of the examination and a brief commentary on it including any post-submission public consultation and sustainability appraisal on proposed MMs. Where

the Plan has been submitted with an addendum of focused post-publication changes the Inspector will, subject to legal compliance and soundness considerations, confirm whether the addendum has been treated as part of the submitted plan (as previously indicated by the Inspector in the pre-hearing guidance note)⁹;

- *Compliance with the Duty to Co-Operate*¹⁰: this sets out whether the Council has complied with the requirements arising from the duty imposed by section 33A of the PCPA. Any failure in this regard cannot be remedied by modifications at the examination stage; therefore where the duty to co-operate has not been complied with, the Inspector has no choice but to recommend non-adoption of the Plan;
- *Assessment of Soundness*: this part of the report deals with the soundness requirements; whether the Plan has been positively prepared, is justified, effective and consistent with national policy¹¹. It makes clear why any MMs are recommended, with reference to the specific requirements for soundness/legal compliance as appropriate. However, reports are not structured around soundness requirement headings but are sub-divided into the **Main Issues** upon which the soundness of the Plan depends. In some cases a *Preamble* will be helpful to provide information on, for example, recent changes in national policy or the adoption of other plans that may have altered the context of the submitted Plan;
- *Assessment of Legal Compliance*: in most cases this can be dealt with briefly in a summary table. Where a MM is necessary to ensure legal compliance, or more detail is necessary on a legal compliance issue, this would normally be dealt with in the main body of the report; and
- *Overall Conclusion and Recommendation*: this will set out clearly in terms of the relevant parts of section 20 of the PCPA whether the Plan should be adopted with or without MMs or should not be adopted.

Recommendations on Main Modifications

5.5 When an Inspector recommends MMs, the PCPA requires that the report makes explicit that the Plan as submitted (i.e. without the main modifications) should not be adopted and gives reasons why this is the case. The Inspector makes recommendations on MMs necessary to make the Plan sound only where requested to do so by the LPA. There is no statutory requirement for the LPA to adopt a Plan¹² However, if the LPA

⁹ See paragraph 2.3 above.

¹⁰ This duty came into force on 15 November 2011 and applies to plans submitted on or after that date.

¹¹ Paragraph 182, NPPF.

¹² s. 23(2)(3) of the PCPA

proceeds to adoption, the MMs would need to be made to meet the statutory requirements.

5.6 Any MMs that are recommended will be set out in full in a schedule that forms an appendix to the report. Each will have a reference number that is highlighted in the relevant part of the report dealing with the unsoundness/legal concern that is resolved by the MM.

5.7 The exact wording of any recommended MM must be given in every instance, following the usual convention of strikethrough for deletions from the text of the submitted Plan and underline for additions to the text. Where a new or amended drawing, diagram or table needs to be inserted into the Plan, the LPA should be asked by the Inspector to prepare the modified version which should be attached to the schedule. There should be a clear reference in the schedule to what needs to be deleted from or inserted in the Plan.

5.8 Inspectors should not normally append 'track change' annexes to their reports. LPAs should provide track change documents to the Inspector only to supplement the necessary schedule of specific modifications. However a track change version can be helpful in checking the implications of many changes.

5.9 A glossary is provided in the report if appropriate. Other appendices, for example lists of core documents or participants' statements are not needed. This type of material should be kept by the LPA in the examination library.

Section 6: Fact Check Report for the LPA

6.1 The fact check report will be sent to the LPA in electronic and paper format from about week 20 onwards. However for examinations that entail the publication of proposed MMs, several weeks should be added to this, depending on the extent of the additional work required..

6.2 The report will be copied to the Department for Communities and Local Government (DCLG). Section 21 of the Act provides the Secretary of State with powers of intervention before a Plan is adopted by a LPA.

Responding to the Fact Check

6.3 The LPA may not question the Inspector's conclusions although it may seek clarification on any conclusions that are considered to be unclear. The LPA should complete the fact check within two weeks of receiving the fact check report.

6.4 While the fact check stage provides the tentative final report, the LPA is advised not to publish that report until the fact check process is complete and the final report is issued by the Planning Inspectorate.

Section 7: Delivery of the Final Report

7.1 Once the fact check has been completed and the Inspector has responded to any points raised, the final report will be submitted to the LPA in electronic format.

7.2 The Planning Inspectorate will not publish the report. It is produced for the LPA, who is responsible for its publication. Similarly the Planning Inspectorate will not make known the outcome of a completed Plan examination until this information has been placed in the public domain by the LPA, which should be done as soon as is practicable. A list is available on the Planning Inspectorate website which lists the plans that have been submitted for examination and the outcomes¹³.

7.3 The LPA will be invoiced for the completed examination in accordance with the Service Level Agreement (SLA)¹⁴ agreed between the authority and the Planning Inspectorate. The charging regime is set out in the Town and Country Planning (Costs of Independent Examinations) (Standard Daily Amount) (England) Regulations 2006 SI 2006 No. 3227.

¹³ This is regularly updated and can be viewed at the foot of the page at:
<http://www.planningportal.gov.uk/planning/planningsystem/localplans#submitted>

¹⁴ The SLA covers the arrangements between the Inspectorate and the LPA for the examination and the delivery of the Inspector's report.

Section 8: Exceptional Procedures

Exploratory Meetings

Purpose

8.1 The need for an Exploratory Meeting (EM) will usually arise if the Inspector has significant concerns about the key Matters and Issues identified in his/her initial reading of the submitted Plan. The purpose is therefore to alert the LPA to likely problems of soundness and /or legal compliance. Inspectors will only call an EM if they have serious concerns about some aspect of the submitted Plan.

8.2 An LPA should therefore treat an EM in quite a different way to a PHM, which is called if necessary for procedural and administrative reasons only. See the section on PHMs at paragraphs 8.18 – 8.24.

8.3 Since it is an early mechanism to explore concerns, an Inspector would not normally hold an EM once the hearing sessions have commenced. If serious concerns were emerging during hearing sessions, the Inspector would be able to arrange an additional hearing session as necessary to review how far the examination has reached and discuss concerns arising. An additional session might also be arranged if the Inspector, in reviewing his/her conclusion of the hearing sessions, identifies a matter(s) affecting soundness or legal compliance which needs to be investigated further.

Approach

8.4 The Inspector will explain why the EM has been called and how he/she will regard the information obtained at the meeting: the premise of the meeting is that the Inspector has some concerns on various issues but has not determined that the Plan is unsound at this point. He/she will seek clarification on certain issues which, hopefully, will inform the way forward in the examination. Or in the worst case scenario, the Inspector may need to inform the parties that it is unclear how the issues can be rectified.

Participants, Notice and Timing

8.5 The EM will involve the LPA and the Inspector may also invite any representors who have made significant points about the issues that are causing concern. EMs must be public meetings and therefore any person may attend and observe. The Inspector will ensure that the EM does not become an examination of the Plan where only the LPA and a limited number of other parties have had the opportunity to comment; there would be issues of fairness if others were not given a formal opportunity to make their views known.

8.6 The meeting will be arranged by the PO and publicised by the LPA in a manner consistent with any commitment in the LPA's SCI and reasonable

notice should be provided. It is also recommended that the LPA places an advertisement on its website to publicise the meeting at the earliest opportunity. The invitation letter will emphasise that formal evidence will not be heard and that the Inspector will determine how to progress the examination following the EM.

The Inspector's Role

8.7 The Inspector will set out an agenda/list of questions that will be publicised in advance of the meeting and will identify the main points for discussion. While not testing the evidence, the Inspector may voice concerns about an incomplete or inadequate evidence base and may explore with the parties what additional material is necessary to inform the examination.

8.8 The EM should provide an opportunity to deal with certain matters such as clarifying:

- the representations received from stakeholders including specific consultation bodies;
- the extent/nature of the evidence the LPA has submitted to the examination; and
- the extent to which the approach outlined in the NPPF has been followed.

8.9 An EM can be a difficult experience for all involved, particularly the LPA since it will have invested much time and effort in preparing the Plan. The Inspector will lead the meeting and it is important that he/she communicates his/her concerns clearly and in a sensitive manner. A note of the meeting will be prepared by the Inspector and will highlight any further work required from the LPA to enable the examination to proceed. The papers relating to the EM should be made available on the examination website. This should include any papers produced at the request of the Inspector by parties attending the meeting and the Inspector's note of the meeting.

Potential Outcomes of an Exploratory Meeting

8.10 An EM may have one of the following outcomes:

- (i) *the Plan is withdrawn*: where the Inspector has serious concerns which appear unlikely to be rectified (or cannot be rectified, for example if there is a failure of the duty to co-operate), he/she may invite the LPA to consider withdrawing the Plan; the Inspector may set a deadline for a response;
- (ii) *the issues are resolved*: the issues are resolved to the satisfaction of the Inspector and the examination will proceed

to the hearing sessions; the EM will be reported to the first scheduled hearing session (or to a PHM if one is necessary);

- (iii) *the examination is temporarily suspended*: the Inspector may agree to a short-term suspension of the examination to enable the LPA to undertake additional work (suspension is covered in detail in paragraphs 8.14 - 8.17 below); this may require rescheduling the hearing sessions; or
- (iv) *the Inspector remains concerned and issues remain unaddressed by the LPA*: following on from any PHM (if necessary) at which the concerns will be indicated, the Inspector may then schedule a hearing session to deal with the key issue(s) of concern first. This will allow an opportunity to make representations on whether the LPA and participants agree with the Inspector and how the examination should be progressed. The Inspector will then decide whether to continue with further planned hearings or, if the Plan is unsound on a fundamentally important point which cannot be rectified, he/she will ask the LPA to withdraw the Plan.

8.11 An EM is an unscheduled element of the indicative examination timetable and it will introduce an element of delay into the examination programme. The extent of the delay will depend on the outcome of the meeting. If the issues are resolved, the delay should only be a matter of weeks. However, where an Inspector agrees to a temporary suspension, this might last for several months. However any delay beyond six months usually indicates that the appropriate course of action is withdrawal of the Plan and re-submission once the problems have been resolved. The PO should circulate the notes of the EM.

Withdrawal of The Plan

8.12 If major additional work needs to be carried out on a Plan, it is likely that the submitted Plan was not sound at submission and the LPA should withdraw the Plan. Where an LPA is aware that the examination is identifying unsoundness in relation to its Plan, it is inappropriate generally for the LPA to try to short-circuit the process by seeking to rectify a seriously flawed document through suspension (as opposed to withdrawing it and submitting a sound document in due course).

8.13 If the LPA is reluctant to withdraw the Plan the Inspector will advise that the examination may proceed with the risk to the LPA that the Plan may eventually be found unsound and/or not legally compliant and not capable of being rectified. It is in no one's interest if time and money is spent on examination of a Plan that cannot be made capable of adoption.

Suspension of the Examination

8.14 It is important that LPAs submit sound Plans, backed up by a comprehensive, up-to-date and robust evidence base. Only in that way can the examination process be fully effective. However in particular circumstances it may be appropriate for the Inspector to defer proceedings i.e. suspend the examination if a limited amount of time is required for the Council to carry out additional work that would address one or more significant issues raised by the Inspector.

8.15 A suspension request may arise through a number of routes including:

- holding of an EM by the appointed Inspector;
- concerns about the Matters and Issues identified by the Inspector at a PHM; or
- the LPA's own post-submission re-appraisal of the Plan (LPAs are particularly likely to do this where findings of unsoundness emerge from examinations of other plans and these cast some doubt over their own approach).

8.16 If contemplating the justification for suspending the examination, the schedule and timetable of work from the LPA will be required and the Inspector will consider the following questions:

i. What is the scale and nature of the work required to overcome the perceived shortcoming of the Plan?

Is it to:

- (a) commission new evidence, which raises an issue about the basis on which the Plan has been prepared, or
- (b) to ensure proper consultation has taken place which would rectify a potential procedural unsoundness?

Point (a) would suggest the evidential base for the Plan is not sound and the risk of commissioning new evidence is that it may lead to major changes to the submitted Plan. However, (b) might suggest a consultation exercise could enable the Inspector to proceed without undue delay.

ii. How long will it take to do the work?

Up to six months' suspension might be acceptable but a period greater than this is unlikely to be generally appropriate. Where practicable, the Inspector may consider a partial suspension i.e. suspending the examination only in relation to a part of the Plan where further work is needed. This can allow the examination to continue into the remaining elements of the Plan, which will cause less disruption to the examination timetable¹⁵. A delay of more than six months would be likely to

¹⁵ However, this will only be appropriate in very limited circumstances e.g. where the matter on which further work is needed is discrete or separate and is unlikely to undermine the soundness of the remainder of the Plan. This approach would necessitate an

create a great deal of uncertainty within the examination process for those who have submitted representations at the publication stage. Furthermore a delay of this period would normally only be necessary if the LPA were proposing major changes to the Plan which had not been adequately frontloaded. In that event the Plan should be withdrawn to allow the proper procedures to be followed for a revised version of the Plan.

iii. What will the further work lead to?

If it were to lead to a substantially revised Plan compared with the one submitted, this would raise questions about what the Inspector is examining and it suggests an inappropriate evidence base and submission. However, if it provides strengthened evidence which does not lead to major changes, it will be unlikely to cause significant delay.

8.17 There are particular matters that the Inspector will have to consider when the examination resumes:

- if the Plan has been changed, it may have to undergo another consultation period so that interested persons have the opportunity to make representations about the changes;
- further sustainability appraisal may be necessary to ensure compliance with the legal requirements; and
- if further sustainability appraisal is carried out, it will be necessary to consult upon it in order to comply with the Strategic Environmental Assessment Regulations (Environmental Assessment of Plans and Programmes Regulations 2004¹⁶).

The Pre-Hearing Meeting (PHM)

Purpose

8.18 If it is necessary, a PHM will be held to ensure the smooth running of the examination hearings. However in the majority of cases the information may just as easily be disseminated in the Inspector's initial Guidance Note (see paragraphs 2.19 - 2.20 above). This note would usually be read in conjunction with the draft schedule of Matters and Issues and the hearings programme that the PO will circulate at an early stage in the examination.

8.19 The PHM introduces the Inspector and the PO and sets out the proposed start date for the hearings, the indicative programme, draft list of Matters and Issues, the venue and other administrative arrangements, and confirms the starting point and purpose of the examination. The PHM

extra hearing session (s) to be scheduled after the main hearings to consider the further work once completed.

¹⁶ View at: <http://www.legislation.gov.uk/ukxi/2004/1633/contents/made>

may also include other information on submission of written statements, appearances, site visits, the format of the Inspector's report and the arrangements for closing the examination.

Approach

8.20 In the circumstances where a PHM is deemed necessary, a suitable date for this meeting will be set very soon after submission to ensure that reasonable notice is provided. The notice period is not prescribed but it is recommended that the LPA should give at least four weeks' notice. Parties can expect the PHM for Plans to be around eight weeks after submission. It is important that all those who wish to be involved in the examination, particularly those involved in the hearing sessions, attend the PHM.

8.21 At the PHM the Inspector will refer briefly to the main points in his/her initial Guidance Note. The Inspector will then go on to deal with the particular matters that have given rise to the need for a PHM e.g. the timetable for hearing sessions, the likely timing of participants' appearances, any arrangements for conjoined examinations if relevant, and the broad definition of the Matters and Issues. The Inspector will hear discussion and seek to gain agreement on these points and be receptive to varying the initial arrangements if reasonable changes are put forward. There will be an opportunity for questions to be put to the Inspector and for him/her to put questions to others.

8.22 Both the LPA and those who have made representations seeking changes to the Plan should be prepared to take an active role at the PHM. Whilst non-attendance at the PHM by persons seeking changes to the Plan will not prejudice the right to be heard, it is considered desirable that those who seek to appear at the examination make every effort to attend such meetings. This is because the PHM will deal with the particular procedural matters that need to be resolved in advance of finalising the hearings' arrangements and provide an opportunity to express views on the initial draft list of Matters and Issues that will be subject to examination.

8.23 The LPA should ensure that by the time the PHM is held, the hearing sessions start date has been published in accordance with the regulatory requirement, with a view to the hearings commencing at week 14.

8.24 The PO should circulate the notes of the PHM, along with the list of Matters and Issues and the programme for the hearing sessions as soon as practicable after the PHM.

Technical Seminars

8.25 If a Plan is based on technical considerations the Inspector may seek to hold a technical seminar at which the methodology and basis of the evidence being presented can be explained. It should be emphasised that the seminar will not test the evidence. Its purpose is to save time during

the hearing sessions and help to ensure a more effective examination by enabling all parties to obtain a clearer understanding of the technical basis including the methodological underpinning of certain evidence. Its relevance and appropriateness can then be explored and tested as necessary at the hearing sessions.

8.26 If a technical session is required the parties who have presented the technical evidence will be asked to prepare explanatory material which will be circulated to other parties who have been invited to attend the relevant hearing sessions. These other parties and anyone else who is interested may attend the technical session which will be held in public. Notification procedures for technical sessions should be the same as for exploratory meetings.

Witness Summons

8.27 There is no power to summon a witness. However the Inspector is not precluded from inviting anyone to appear and be heard at a hearing session, where he or she thinks that person is needed to enable the soundness of the Plan to be determined. However, the right to be heard is limited to those that are defined in S20(6) of the PCPA i.e. any person that has made representations¹⁷ seeking a change to the Plan.

8.28 This approach aligns with the general flexibility afforded to the examination process. There are no procedural rules for examinations and the guidance in this document provides the main operating framework. However in the interests of consistency, Inspectors are reminded they should continue to have regard to the spirit of other procedure rules governing determination procedures (and natural justice considerations) i.e. timely circulation of papers, reasonable notice to participate etc.

¹⁷ 'Representations' are those made within the terms of regulations 19 and 20.

Annex 1:

Model Representation Form and Guidance for Local Plan Publication Stage Consultation

1. When the LPA publishes the Plan, it places the Plan on the LPA's website and on deposit at its main office and other suitable venues. It will also send copies of the Plan to the consultation bodies described in the regulations, and will invite representations on the submitted document for a period of at least six weeks.
2. A suggested model form and guidance note is provided below for LPAs to use in inviting representations on Plans at publication stage. Copies of the form and accompanying note should be made available by the LPA on request or should be available for download on the local authority website. The completed form may be submitted to the local authority either by post or via the email address provided by the local authority for making representations.
3. The LPA should indicate the date and time by which representations should be received. Only those representations made within the period set by the LPA (no less than 6 weeks) will be taken into account by the Inspector as part of the examination.
4. Careful consideration should be given by those making a representation in deciding how the representation should be dealt with i.e. reliance on the written representation only or by also exercising the right to be heard. Only where a change is sought to the Plan is there a right for the representation to be heard at the hearing session(s). It is important to note that written and oral representations carry exactly the same weight and will be given equal consideration in the examination process. When making a representation seeking a change to the published Plan, representors should be as specific as possible about the issue that is the subject matter of the representation and the changes that are needed to make the document legally compliant or sound.
5. The published Plan should be informed by earlier extensive public participation to ensure that what the Council publishes is sound. This makes it less likely that matters will be raised at this stage that have not been the subject of previous representations.

Model Representation Form for Local Plans

LPA Logo	Local Plan Publication Stage Representation Form	Ref: (For official use only)
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Name of the Local Plan to which this representation relates:

Please return to [LPA] BY [time/ date/year]

This form has two parts –

Part A – Personal Details

Part B – Your representation(s). Please fill in a separate sheet for each representation you wish to make.

Part A

1. Personal Details*

2. Agent's Details (if applicable)

**If an agent is appointed, please complete only the Title, Name and Organisation boxes below but complete the full contact details of the agent in 2.*

Title	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
First Name	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
Last Name	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
Job Title (where relevant)	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
Organisation (where relevant)	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
Address Line 1	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
Line 2	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
Line 3	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
Line 4	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
Post Code	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
Telephone Number	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
E-mail Address (where relevant)	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>

Part B – Please use a separate sheet for each representation

Name or Organisation :

3. To which part of the Local Plan does this representation relate?

Paragraph Policy Policies Map

4. Do you consider the Local Plan is :

4.(1) Legally compliant	Yes	<input type="text"/>	No	<input type="text"/>
4.(2) Sound	Yes	<input type="text"/>	No	<input type="text"/>
4 (3) Complies with the Duty to co-operate	Yes	<input type="text"/>		<input type="text"/>
No				<input type="text"/>

Please tick as appropriate

5. Please give details of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible.

If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments.

(Continue on a separate sheet /expand box if necessary)

6. Please set out what modification(s) you consider necessary to make the Local Plan legally compliant or sound, having regard to the test you have identified at 5 above where this relates to soundness. (NB Please note that any non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why this modification will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

(Continue on a separate sheet /expand box if necessary)

Please note your representation should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested modification, as there will not normally be a subsequent opportunity to make further representations based on the original representation at publication stage.

After this stage, further submissions will be only at the request of the Inspector, based on the matters and issues he/she identifies for examination.

7. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination?

No, I do not wish to participate at the oral examination

Yes, I wish to participate at the oral examination

8. If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:

Please note the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination.

9. Signature:

Date:

Notes to Accompany Model Representation Form

1. Introduction

1.1 The Local Plan (Plan) is published in order for representations to be made prior to submission. The representations will be considered alongside the published Plan when submitted, which will be examined by a Planning Inspector. The Planning and Compulsory Purchase Act 2004¹⁸ (as amended) (PCPA) states that the purpose of the examination is to consider whether the Plan complies with the legal requirements, the duty to co-operate and is sound.

2. Legal Compliance and Duty to Co-operate

2.1 The Inspector will first check that the Plan meets the legal requirements under s20(5)(a) and the duty to co-operate under s20(5)(c) of the PCPA before moving on to test for soundness.

2.2 You should consider the following before making a representation on legal compliance:

- The Plan in question should be included in the current Local Development Scheme (LDS) and the key stages should have been followed. The LDS is effectively a programme of work prepared by the LPA, setting out the Local Development Documents (LDDs)¹⁹ it proposes to produce. It will set out the key stages in the production of any Plans which the LPA proposes to bring forward for independent examination. If the Plan is not in the current LDS it should not have been published for representations. The LDS should be on the LPA's website and available at its main offices.
- The process of community involvement for the Plan in question should be in general accordance with the LPA's Statement of Community Involvement (SCI) (where one exists). The SCI sets out the LPA's strategy for involving the community in the preparation and revision of LDDs (including Plans) and the consideration of planning applications.
- The Plan should comply with the Town and County Planning (Local Planning) (England) Regulations 2012 (the Regulations)²⁰. On publication, the LPA must publish the documents prescribed in the Regulations, and make them available at its principal offices and on its website. The LPA must also notify the Local Plan bodies (as set out in the Regulations) and any persons who have requested to be notified.
- The LPA is required to provide a Sustainability Appraisal Report when it publishes a Plan. This should identify the process by which

¹⁸ View at <http://www.legislation.gov.uk/ukpga/2004/5/contents>

¹⁹ LDDs are defined in regulation 5 – see link below.

²⁰ View at <http://www.legislation.gov.uk/uksi/2012/767/contents/made>

the Sustainability Appraisal has been carried out, and the baseline information used to inform the process and the outcomes of that process. Sustainability Appraisal is a tool for appraising policies to ensure they reflect social, environmental, and economic factors.

- In London, the Plan should be in general conformity with the London Plan (the Spatial Development Strategy).
- The Plan must have regard to any Sustainable Community Strategy (SCS) for its area (i.e. county and district). The SCS is usually prepared by the Local Strategic Partnership which is representative of a range of interests in the LPA's area. The SCS is subject to consultation but not to an independent examination.

2.3 You should consider the following before making a representation on compliance with the duty to co-operate:

- The duty to co-operate came into force on 15 November 2011 and any plan submitted for examination on or after this date will be examined for compliance. LPAs will be expected to provide evidence of how they have complied with any requirements arising from the duty.
- The PCPA establishes that non-compliance with the duty to co-operate cannot be rectified after the submission of the Plan. Therefore the Inspector has no power to recommend modifications in this regard. Where the duty has not been complied with, the Inspector has no choice but to recommend non-adoption of the Plan.

3. Soundness

3.1 Soundness is explained in paragraph 182 of the National Planning Policy Framework (NPPF). The Inspector has to be satisfied that the Plan is positively prepared, justified, effective and consistent with national policy.

- ***Positively prepared***

This means that the Plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development.

- ***Justified***

The Plan should be the most appropriate strategy when considered against reasonable alternatives, based on proportionate evidence.

- ***Effective***

The Plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities.

- ***Consistent with national policy***

The Plan should enable the delivery of sustainable development in accordance with the policies in the NPPF.

3.2 If you think the content of the Plan is not sound because it does not include a policy where it should do, you should go through the following steps before making representations:

- Is the issue with which you are concerned already covered specifically by national planning policy (or the SDS in London)? If so it does not need to be included?
- Is what you are concerned with covered by any other policies in the Plan on which you are seeking to make representations or in any other Plan?
- If the policy is not covered elsewhere, in what way is the Plan unsound without the policy?
- If the Plan is unsound without the policy, what should the policy say?

4. General advice

4.1 If you wish to make a representation seeking a modification to a Plan or part of a Plan you should make clear in what way the Plan or part of the Plan is not sound having regard to the legal compliance, duty to cooperate and the four requirements set out above. You should try to support your representation by evidence showing why the Plan should be modified. It will be helpful if you also say precisely how you think the Plan should be modified. Representations should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested modification, as there will not normally be a subsequent opportunity to make further submissions based on the original representation made at publication. After this stage, further submissions will be only at the request of the Inspector, based on the matters and issues he/she identifies for examination.

4.2 Where there are groups who share a common view on how they wish to see a Plan modified, it would be very helpful for that group to send a single representation which represents the view, rather than for a large number of individuals to send in separate representations which repeat

the same points. In such cases the group should indicate how many people it is representing and how the representation has been authorised.

Annex 2:

Guidance for Fast Track Reviews of Specific Policy Issues in a Local Plan

Note: This was previously a separate guidance note, which has been incorporated (as originally published) into the Procedural Practice document for ease of reference.

1. Introduction

1.1 This guidance note provides information and advice on how to carry out a fast track review of specific policies in Local Plans following the publication of the National Planning Policy Framework.

1.2 The NPPF provides that for the purposes of decision-taking the policies in the Local Plan²¹ should not be considered out of date simply because they were adopted prior to the publication of the Framework (on 27th March 2012). The policies contained in the Framework are now material considerations which local planning authorities must have regard to when preparing local plan policies. Plans may need to be reviewed to take into account the policies in the Framework. This should be progressed as quickly as possible, either through a partial review or by preparing a new plan. This fast-track guidance has been made available to help local councils speed up partial reviews where they only need to review one or a small number of specific policies in their Local Plans.

2. Context

2.1 At present, the process of examining Local Plans by the Planning Inspectorate takes a minimum of 20 weeks for full plans. This is part of a two to three year process of plan preparation. The examination element of the process starts from the time the local council submit their plan to the Planning Inspectorate, usually around 6 months prior to anticipated adoption.

2.2 The Inspectorate has now developed a revised examination timeline for **a review of one or a small number of specific policy issues**, to help councils update **discrete** parts of their local plan in **around 6 months**. Such reviews could consist of, for example, car parking standards or provision of open space and recreation, but are unlikely to be able to cover issues which are fundamental to a plan such as housing or

²¹ The National Planning Policy Framework glossary defines 'Local Plan'.

employment strategies.

2.3 The demand for a swift mechanism to make small changes through a specific policy issues review had already been clearly identified by local councils.

2.4 The 6 month timetable set out in this guidance is highly dependent on tight project management by local councils and ongoing liaison with the Planning Inspectorate over timetabling at the key process points identified below.

2.5 Councils may also wish to consider, where they have a plan document well progressed, for example a site allocations document, whether there is scope to build the outcome of a specific policy issue review into that document. This will depend on whether the regulatory steps for the specific policy issues review can be undertaken on a timetable which will enable the two plan processes to be merged into one plan document prior to publication. This approach is now possible as a result of the removal of the hierarchy of local plan documents in the 2012 Regulations. Please contact the Inspectorate to discuss further.

2.6 Local councils need to follow the usual plan preparation steps when undertaking a specific policy issues review. Local councils:

- consider the scope of the review and identify preliminary subject matter;
- gather initial evidence;
- invite representations on the scope of the planned policy changes - ensuring public participation (regulation 18);
- consider representations;
- prepare plan policies for publication;
- publish plan policies (regulations 19 and 20);
- invite representations;
- consider representations;
- submit Plan policies for examination (regulation 22).

2.7 This timetable is not suitable for partial plan reviews which involve more than a small number of specific policy issues. This is because the larger the number of issues involved in a partial review the longer it will take to complete the various stages. However, the project management principles suggested for specific policy issue reviews will help local councils to speed-up partial reviews.

3. The Role of the Local Council

3.1 Reducing the overall timescale for updating plans is highly dependent on the nature of the issues a local council wishes to amend in their plan, what knock-on environmental impacts must be assessed, and that sufficient resources are available to meet the task of the review. Local councils will need to ensure they have consulted with necessary groups to meet statutory requirements and deal with any issues of key evidence early on, so unforeseen concerns do not arise which legally require further

longer discussion during the examination period.

3.2 Firstly a Programme Officer should be appointed by the local council to manage the process of review. The local council must keep in close contact with the Planning Inspectorate during the preparation of the review of the plan, to ensure an Inspector is available to start the examination upon submission. The local council must nominate and adhere to a fixed submission date. Failure to do this could mean the examination period lengthens due to the unavailability of an Inspector.

3.3 If the local council are confident a fixed submission date can be adhered to, an Inspector can be appointed in advance of the formal submission date so that the examination can commence the day after submission, subject to the satisfying of statutory notice requirements.

3.4 Under current regulations, local councils must satisfy a regulatory 6 weeks publicity timeframe prior to a hearing taking place – if anyone exercises their right to be heard. Subject to a local council meeting a fixed submission date, the opening date for the hearing sessions can be agreed with the Planning Inspectorate in advance of submission. The local council can then advertise the hearing sessions prior to formal submission of the plan to the Planning Inspectorate thus contributing to additional time savings.

4. The Revised Examination Timeline (1-2 Hearing Days)

4.1 Figures 1 (overview) and 2 (detail) shows how an examination into a specific policy issues review, which in practice may require only 1-2 hearing days, would be conducted. The timetable is tight and again is reliant on all parties to play their part in ensuring the process deadline is met. It assumes:

- that the local council has nominated and adhered to a fixed submission date;
- that the Inspector is appointed prior to formal submission of the plan;
- that the local council has advertised the hearing start date prior to formal submission of the plan;
- that a Programme Officer is in place upon submission
- no more than 1-2 hearing days are required;
- that the local council is not requesting recommended modifications which need advertisement/sustainability appraisal;
- that the Inspector has sufficient information at week 4 and does not need any further referrals back to the parties;
- that the Inspector will aim to give 2 weeks to parties to produce any written material requested; and
- that additional written material will go on the website but will not be formally circulated.

5. The Revised Examination Timeline (Written Representations)

5.1 Figures 3 (overview) and 4 (detail) shows how an examination into a specific policy issues review which can be examined by written representations would be conducted. The considerations are:

- that no person has exercised their right to be heard i.e. hearing sessions are not required;
- that the local council has nominated and adhered to a fixed submission date;
- that the Inspector is appointed prior to formal submission of the plan;
- that a Programme Officer is in place upon submission;
- that the local council is not requesting recommended modifications which need advertisement/sustainability appraisal;
- that the Inspector has sufficient information at week 4 and does not need any further referrals back to the parties;
- that the Inspector will aim to give 2 weeks to parties to produce any written material requested. Additional written material will go on the website but will not be formally circulated; and
- No quality assurance process additional to Fact Check from local Council.

6. Further advice

6.1 Please contact the Plans Team within the Planning Inspectorate if you have any queries on this guidance and are considering using this new expedited process. We would strongly recommend you contact the Planning Inspectorate at the outset so that we can work with you to track progress and ensure that we can deliver on examination timeliness. Please email: Plans.Admin@pins.gsi.gov.uk

Figure 1: Overview timeline for a single Policy Review examination with 1-2 hearing days

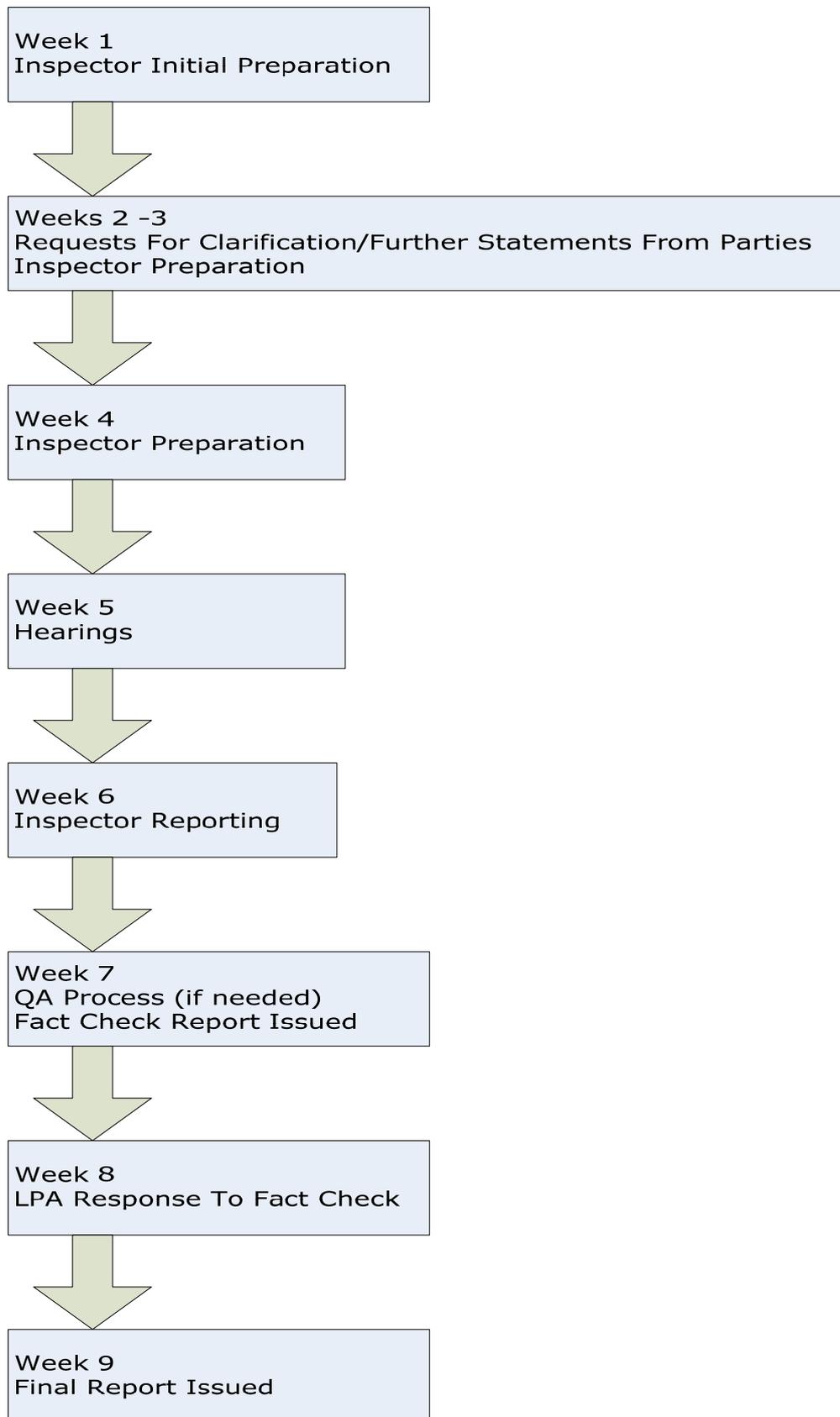


Figure 2: LOCAL PLAN with hearing session lasting 1-2 days

Week	Key Actions
Week 1	<ul style="list-style-type: none"> • Local Planning Authority (LPA) submits Local Plan for review to the Secretary of State (in practice to the Planning Inspectorate) including a full and complete evidence base and regulation 22(1)(c) statement. • It is very important that the Programme Officer (PO) is in place by submission given there is no post submission consultation stage. • Inspector will commence early appraisal of the Local Plan and make contact with the PO. • Subject to no fundamental or cumulative flaws in the Local Plan, the Inspector will give consideration to the structure of hearings, allocate participants to hearing sessions and decide what additional material is needed from participants (if required). Date for submission of responses to the Inspector will usually be the same for all parties – process is to inform Inspector not create counter arguments and rebuttals. • LPA may be asked to provide papers on specific issues highlighted by the Inspector. However, papers should not be put forward if not asked for by Inspector (e.g. if LPA wishes to produce topic papers, these should be part of the evidence base submitted with the Local Plan). • Inspector takes charge of process of what may be submitted. Date for submission of responses to the Inspector will usually be the same for all parties – process is to inform Inspector not create counter arguments and rebuttals.
Weeks 2 - 3	<ul style="list-style-type: none"> • PO sends initial letter to participants programme for hearing sessions incl matters/issues and circulates Inspector’s Guidance Notes • LPA & participants will work on providing any material requested by Inspector LPA prepares answer to any matters and issues raised by the Inspector in the early correspondence. • The LPA and other participants in the

	examination will have around 2 weeks to produce their statements for the hearing session.
Week 4	<ul style="list-style-type: none"> • Responses and statements from LPA and participants due. • PO clarifies and confirms attendance at the hearings
Week 5	<ul style="list-style-type: none"> • HEARING SESSIONS COMMENCE. • The hearing sessions form an important part of the examination process; all participants should attend on the relevant day. • Inspector will announce the report delivery date at the last hearing session (taking into account the time required for the internal quality assurance (QA) process).
Week 6	<ul style="list-style-type: none"> • Inspector reporting • After the hearings have concluded and the Inspector is reporting, no further representations/papers will be necessary unless specifically requested by the Inspector (the examination remains open throughout the reporting period).
Week 7	<ul style="list-style-type: none"> • If required the report will be subject to an internal QA process in the Inspectorate before dispatch. This process will take around 1 week. • Following the QA process the report will be despatched to the LPA for fact check.
Week 8	<ul style="list-style-type: none"> • LPA has 1 week to carry out the fact check.
Week 9	<ul style="list-style-type: none"> • Inspector will respond to the fact check matters raised by the LPA. • Final report will be dispatched.

Figure 3: Overview timeline for a single Policy Review examination with no hearing sessions i.e. going by written reps

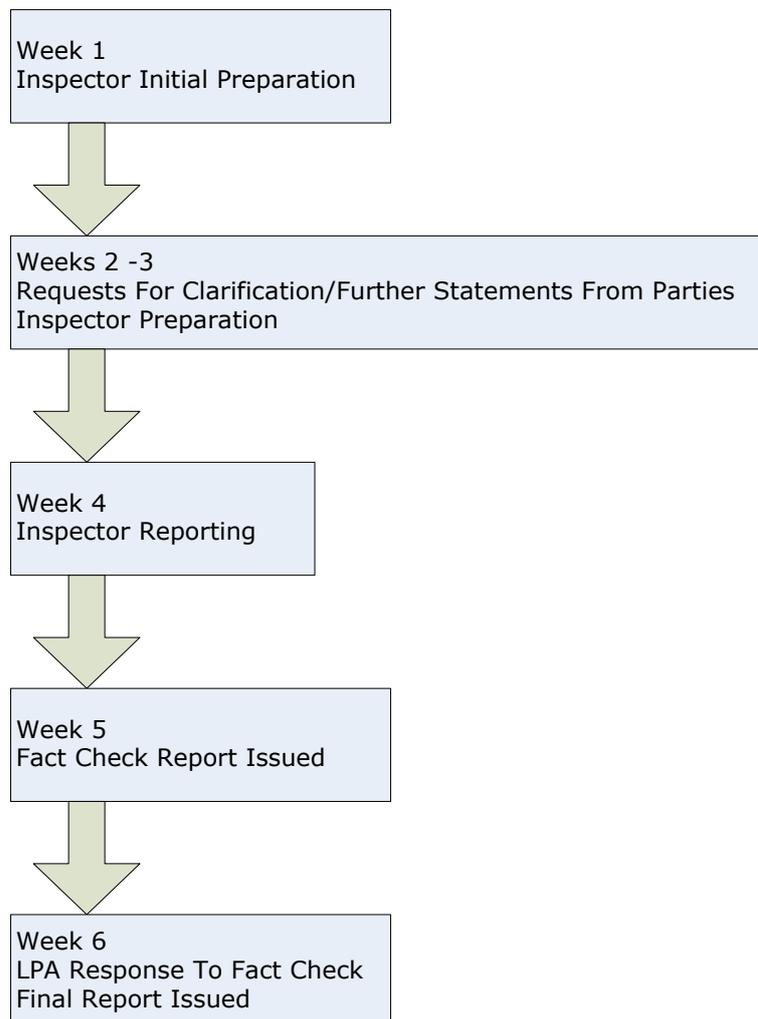


Figure 4: Local Plan with no hearing sessions i.e. going by written reps

Week	Key Actions
Week 1	<ul style="list-style-type: none"> • LPA submits Local Plan to the Secretary of State (in practice to the Planning Inspectorate) including a full and complete evidence base and regulation 22(1)(c) statement. • It is very important that the Programme Officer (PO) is in place by submission given there is no post submission consultation stage. • Inspector will commence early appraisal of the Local Plan and make contact with the PO. • Subject to no fundamental or cumulative flaws in the Local Plan, the Inspector will decide what additional material is needed from participants (if required). Date for submission of responses to the Inspector will usually be the same for all parties – process is to inform Inspector not create counter arguments and rebuttals. • LPA may be asked to provide papers on specific issues highlighted by the Inspector. However, papers should not be put forward if not asked for by Inspector (e.g. if LPA wishes to produce topic papers, these should be part of the evidence base submitted with the Local Plan). • Inspector takes charge of process of what may be submitted. Date for submission of responses to the Inspector will usually be the same for all parties – process is to inform Inspector not create counter arguments and rebuttals.
Weeks 2 - 3	<ul style="list-style-type: none"> • PO sends initial letter to participants incl matters/issues and deadline for submission of further responses (if required by Inspector) • LPA & participants will work on providing any material requested by Inspector LPA prepares answer to any matters and issues raised by the Inspector in the early correspondence. • The LPA and other participants in the examination will have around 2 weeks to produce their statements for the hearing session.
Week 4	<ul style="list-style-type: none"> • Responses and statements from LPA and participants due. • PO clarifies and confirms attendance at the hearings • Inspector will announce the report delivery date

	<p>via a letter to the LPA</p> <ul style="list-style-type: none"> • Inspector reporting
Week 5	<ul style="list-style-type: none"> • The report will be despatched to the LPA for fact check. • LPA has 1 week to carry out the fact check.
Week 6	<ul style="list-style-type: none"> • Inspector will respond to the fact check matters raised by the LPA. • Final report will be dispatched.