

# **Procedural Practice in the Examination of Local Plans**

**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
LDS	Local Development Scheme
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-Hearing Meeting
PO	Programme Officer
QA	Quality Assurance
Regulations	The Town and Country Planning (Local Planning) (England) Regulations 2012
SA	Sustainability Appraisal
SCI	Statement of Community Involvement
SLA	Service Level Agreement

## Introduction

1. This document is concerned with the procedural aspects of the examination of local plans (plans). This fourth edition provides updated guidance to take account of more recent developing practice in examinations including the approach to comprehensive plans under paragraph 153 of the National Planning Policy Framework, the Written Ministerial Statement of 21 July 2015 on Local Plans<sup>1</sup>, updated Planning Practice Guidance (May 2016) and issues arising from the extensive plan support work undertaken directly with local planning authorities.

2. The guide is aimed at all those involved in the process of examining a plan, including the appointed Inspector. 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 document therefore provides the main operational framework. 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 will be based on established good practice and set to achieve efficiency and fairness. However, the overarching benefit is that there is considerable flexibility in conducting the examination to accommodate the needs of all those involved and achieve a positive outcome.

### Overview: A Proportionate and Flexible Examination

3. The NPPF advises that each local planning authority (LPA) should produce an aspirational but realistic plan for its area. LPAs invest significantly in the preparation of these plans, including engaging with all sections of the community in their development.

4. The examination is the final stage in that process and LPAs need to be confident that Inspectors, in conducting the examination, will at all times keep in mind the benefits of getting a robust and up-to-date plan adopted for the area. As such the Planning Inspectorate seeks to ensure that plans are taken through the examination process as quickly and efficiently as possible.

5. The Inspector will work proactively with the LPA. Underpinning this is an expectation that:

- issues that are not critical to the plan's soundness or other legal requirements do not cause unnecessary delay to the examination of the plan;

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<sup>1</sup> The Secretary of State also wrote to the Chief Executive of the Planning Inspectorate, on 21 July 2015.

- Inspectors will identify any fundamental concerns at the earliest possible stage in the examination and will seek to work with the local planning authority to clarify and address these;
- where these issues cannot be resolved within the examination timetable, the potential for pausing or formally suspending the examination will be fully explored, with the LPA having an opportunity to assess the scope and feasibility of any work needed to remedy these issues during a pause or a period of suspension, so that this can be fully considered by the Inspector, and
- consideration will be given to the option of the LPA making a commitment to review the plan or particular policies in the plan within an agreed period, where this would enable the Inspector to conclude that the plan is sound and meets the other legal requirements (see Planning Practice Guidance (PPG)<sup>2</sup> and relevant judgment<sup>3</sup>).

6. The Inspector will adopt a consensual approach, seeking agreement between the participants wherever possible but recognising that this is the LPA's plan. Inspectors will be positive, flexible and supportive of the objective of getting an up-to-date, sound plan in place. The Planning Inspectorate ensures that good practice in plan examinations and relevant updates, including judgments handed down by the Courts, are made available to Inspectors.

7. The Inspector will assess whether the LPA has met the duty to co-operate (DTC). This is a legal duty that must be fulfilled in preparing the plan and any failure in this regard cannot be rectified after the plan has been submitted for examination. Therefore any fundamental concerns on this matter will be explored at the earliest possible stage by the Inspector.

8. The examination will focus on the main issues that the Inspector considers are fundamental to the soundness of the plan. It is likely that many if not all of these will have been identified through the Regulation 22<sup>4</sup> statement (the LPA's summary of the key issues raised in the representations on the plan) but others may be identified by the Inspector, having regard to the requirements of the duty to co-operate, legal compliance and soundness<sup>5</sup>. This means that the examination will not delve into matters that do not fundamentally affect the plan's soundness.

<sup>2</sup> Paragraph: 004 Reference ID: 12-004-20160519

<sup>3</sup> Grand Union Investments Limited v Dacorum Borough Council [2014] EWHC 1894 (Admin)

<sup>4</sup> Regulation 22 (c). The Planning Inspectorate also maintains a national database of plans progress covering (i) strategic issues/'core strategies' (PDF); and (ii) all other plans (PDF) . This information is updated as plans complete the examination process, and when the Planning Inspectorate receives updates from LPAs on publications and adoptions.

<sup>5</sup> NPPF (paragraph 182) makes clear that a sound plan is one which is positively prepared, justified, effective and consistent with national policy.

9. 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 plan which can be identified at an early stage. This is likely to involve asking for further explanation or information from the LPA or holding limited and specific hearings as soon as possible. A further option is to hold an Exploratory Meeting (EM) or Procedural Meeting provided that this will not delay the overall process. For Inspectors, frontloading effectively means that by the time the hearing sessions start, they must be thoroughly familiar with the plan, how it was prepared and the issues it raises.

10. 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 asked to be heard must be invited to the hearings by the Inspector. If essential, additional parties who did not ask to be heard may be invited by the Inspector to contribute specialist expertise and knowledge.

11. Inspectors will draft reports on the premise that they should be succinct, 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 requirements for soundness are met. Inspectors will start from the assumption that the LPA has submitted what it considers to be a sound plan.

12. All Inspectors' reports will be subject to peer review before issue in order to achieve the highest possible level of consistency.

## The Procedural Timeline - Examination of a Plan

13. It is essential that LPAs are equipped to move swiftly into the examination process when they submit their plans, particularly making sure that the evidence base is complete, representations properly ordered and collated and that a Programme Officer (PO) is in place.

14. It must be remembered that the examination process starts on submission of the plan. 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, Pre-Hearing Meetings (PHMs – See Section 9) 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. Where there is a PHM this usually adds around 4 weeks to the Stage 1 timetable so that the PHM is held at week 8 and the hearings commence 6 weeks later at week

### Stage 1 – Preparation/Initial Examination and Commencement of Hearing Sessions (10 weeks)

15. Note: In most cases this stage is achievable within 10 weeks but in practice the time required will depend on the readiness of the LPA for the examination, the complexity of the plan and whether the Inspector has identified any matters that must be addressed before proceeding to the hearings stage. As referred to above, the timetable may be adjusted by pausing or formally suspending the examination timetable to enable the LPA to undertake work needed to remedy these matters, so that this can be fully considered by the Inspector. In practice, such variations from the timetable set out below may arise before or after the initial hearings, depending on the circumstances.

Timing	Key Actions
<b>Week 1</b>	<ul style="list-style-type: none"> <li>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.</li> <li><b>IMPORTANT:</b> It is essential that the Programme Officer (PO) is in place by submission.</li> </ul>
<b>Week 2</b>	<ul style="list-style-type: none"> <li>The Planning Inspectorate will seek to appoint an 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).</li> </ul>
<b>Weeks 3-4</b>	<ul style="list-style-type: none"> <li>The Inspector will commence early appraisal of the plan and make contact with the PO.</li> </ul>

	<ul style="list-style-type: none"> <li>• 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.</li> <li>• The Inspector will give consideration to the matters and issues for examination, the structure of hearings, allocate participants to hearing sessions and decide whether 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.</li> <li>• 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.</li> <li>• 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 plan).</li> <li>• The Inspector takes charge of the process of what may be submitted.</li> <li>• 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).</li> </ul>
<b>Week 5</b>	<ul style="list-style-type: none"> <li>• The PO sends the initial letter to participants (if not sent earlier on in the examination), the programme for hearing sessions including matters/issues and circulates the Inspector's Guidance Notes.</li> <li>• 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, if the Inspector has asked for them.</li> </ul>
<b>End Week 7</b>	<ul style="list-style-type: none"> <li>• Responses and statements from the LPA and participants are due.</li> <li>• The PO clarifies and confirms attendance at the hearings.</li> </ul>



<p><b>Week 8</b></p>	<ul style="list-style-type: none"> <li>The PO checks that the statements have been received and ensures that they are placed on the 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.</li> </ul>
<p><b>Week 9</b></p>	<ul style="list-style-type: none"> <li>The Inspector ensures that the programme for the hearing sessions including the agendas for the hearings is updated as necessary and placed on the examination website.</li> <li>The PO circulates final agendas for the discussions at each of the hearing sessions to the relevant participants.</li> </ul>
<p><b>Week 10+</b></p>	<p><b>HEARING SESSIONS COMMENCE.</b></p> <ul style="list-style-type: none"> <li>The hearing sessions form an important part of the examination process; participants should attend on the relevant day or session.</li> <li>The number of hearing days required will be largely dependent on the type of plan, the number of issues which need to be discussed and the number of participants: Typically:             <ul style="list-style-type: none"> <li>Plans dealing with development management policies, area action plans or thematic plans may require anything from a single day up to 5 sitting days;</li> <li>Plans dealing with strategic policies, site allocations plans and mineral and waste plans may require hearings over 5-9 days; and</li> <li>Full plans under para 153 of the NPPF may require up to 20-25 sitting days, and in complex cases, occasionally more.</li> </ul>             Inspectors may also split the hearing sessions into two tranches: the first dealing with strategic policies and sites, and the second dealing with detailed site allocations, development management policies and other matters.           </li> </ul>

**Stage 2 – Main Modifications and Reporting (timing dependent on main modifications)**

Timing	Key Actions
<p>Timescales to be agreed between LPA and Inspector.</p>	<ul style="list-style-type: none"> <li>• The majority of plans are subject to a request from the LPA under section 20(7C) for main modifications to be recommended by the Inspector where necessary to make the plan sound. These will be based on the discussions at the hearing sessions.</li> <li>• The post-hearing timetable will largely be in the control of the local authority to the extent that they will work with the Inspector on drafting the proposed main modifications and will then be required to undertake sustainability appraisal (SA)(as necessary) and public consultation (minimum 6 weeks) on these proposed main modifications.</li> <li>• During this time the Inspector will progress work on the report but finalisation of the draft report will not be possible until the responses and SA are available on the main modifications.</li> <li>• Inspectors will seek to deal with the responses as expeditiously as possible but there may be instances where there are significant representations on proposed main modifications that may necessitate a further hearing session(s). Further hearing sessions will only be held where absolutely necessary to clarify/resolve substantive outstanding issues.</li> <li>• Where there are a large number of main modifications to be taken forward, this is likely to add considerable time to the delivery of the fact check report.</li> </ul>

**Stage 3 – Quality Assurance (QA) and Fact Check (6 weeks)**

<b>Week 1</b>	<ul style="list-style-type: none"> <li>• The draft report will be subject to the internal QA (peer review) process which takes up to 3 weeks, after which the fact check report is sent to the LPA.</li> </ul>
<b>Week 4</b>	<ul style="list-style-type: none"> <li>• The LPA has 2 weeks to carry out the fact check.</li> </ul>
<b>Week 6</b>	<ul style="list-style-type: none"> <li>• The Inspector will deal with the fact check matters raised by the LPA. The Inspector’s final report will be dispatched.</li> </ul>

## Section 1: Pre Submission

1.1. LPAs should rigorously assess the plan before it is published for consultation under regulation 19 to ensure that it is a plan which they think is sound. The plan should focus relentlessly on the critical issues and the strategies to address them, paying careful attention to deliverability and viability. This approach may raise uncomfortable questions but the whole point of the plan is to address the critical issues as far as possible.

1.2. The plan that is published for consultation should be the plan that the LPA intends to submit under Regulation 22 to the Planning Inspectorate. If the LPA wishes to make any changes to the plan following the Regulation 19 consultation, these changes should be prepared as an addendum to the plan. The addendum should be subject to further consultation and, if necessary, to sustainability appraisal before submission if it is to form part of the plan to be examined (see also paras. 3.3 & 3.4.).

1.3. The PCPA specifically provides that a LPA must not submit the plan unless it considers the document is ready for examination. 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 an efficient 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. 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. This also applies to any changes of approach to policy (including site allocation) instigated by a LPA.

### Appointing an Inspector

1.4. In order to ensure that a suitably experienced Inspector is available to examine a plan on its submission, it is essential that LPAs keep the Planning Inspectorate up to date on the progress of their plans. 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 date.

## Evidential Requirements

*What is an adequate evidence base?*

1.5. Authorities frequently ask what evidence is required. The guiding approach is that only evidence that informs the content of the plan is needed. As such the evidence base should include as a minimum all documents referenced in the submitted plan. However, LPAs should seek to avoid an approach where large amounts of evidence are submitted which may be relevant for other planning purposes but do not directly inform the content of the plan itself.

1.6. Authorities should have a very clear idea about what they need evidence for, how they are going to use it and how much detail they need to go into. The evidence base will be subject to scrutiny only to the extent of how adequate it is to justify what is in the plan. It should answer the 'what, where, when and how' effectiveness questions about delivery of development.

1.7. LPAs need to be clear about what conclusions they have come to from the range of evidence available and how they have made choices, based on the evidence. The plan must not contain assertions of fact that are not supported by the evidence. Similarly the evidence should not be collected retrospectively in an attempt to justify the plan.

1.8. Local circumstances will be directly relevant. For example a plan for an area vulnerable to flooding will require more extensive evidence about this matter than a plan for an area where there is no flood risk. Or, if water supply and sewage treatment issues are an important factor then Water Cycle Studies and evidence from the Environment Agency and the relevant utility companies would be expected to support the plan's approach. The guiding principle is that the evidence should be proportionate.

1.9. Certain prescribed documents must be submitted in accordance with Regulation 22:

- The plan (and submission Policies Map if the adoption of the local plan would result in changes to the adopted Policies Map)
- The sustainability appraisal report
- Statement of Community Involvement (where one is adopted)
- Statement under Regulation 22(1)(c) (i-iv) setting out how the Council complied with Regulation 18 on participation in production of the plan showing:
  - Who was invited to make representations
  - How they were invited
  - Summary of the main issues raised
  - How these representations were taken into account

- Statement under Regulation 22(1)(c) (v-vi) relating to the formal representations procedure following publication of the plan and showing:
  - The number of representations received
  - Summary of the main issues raised
- Copies of the representations made in accordance with regulation 22(1) (d)
- Such supporting documents relevant to the preparation of the plan under Regulation 22(1)(e) including the evidence base.

1.10. **It is well worth investing the time in producing a focused and comprehensive statement of the main issues under Reg 22(1)(c)(v) as this will be the first introduction of the Inspector to the likely issues to be addressed in the examination.** While not a legal requirement, it is also very helpful if the LPA briefly indicates its response to the representations, i.e. both to the main issues it has identified and to all the representations.

1.11. It is vitally important that representations are submitted in good order and in two sets. One should be in policy order and the other in number order. They should also be clearly indexed. Because of the time it takes to clarify matters and the impact on Inspector preparation time PINS may decline to start an examination if material has not been submitted in this way where LPAs should have been aware of this requirement. The list of representors should also clearly indicate those that have expressed a wish to be heard under s20(6) of the Act.

1.12. Other material that will also be necessary for the examination includes:

- Self-Assessment of the soundness and legal compliance of the plan. This is not compulsory but LPAs are urged to complete a rigorous and objective assessment of their Plan in order that they satisfy themselves of the legal requirement of section 20 (2) of the 2004 Act. A comprehensive template is provided by the Planning Advisory Service (PAS<sup>6</sup>);
- Habitats Regulations/Appropriate Assessment (or evidence of appropriate scoping work/ copy of a letter from Natural England that confirms an Appropriate Assessment is not required)
- Equalities Impact Assessment
- Latest Local Development Scheme

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<sup>6</sup> Local Plan Checklist/PINS and the soundness self-assessment checklist

- Latest Annual Monitoring Report
- Duty to Co-operate Statement \*(see below)

1.13. It will also assist Inspectors and may also assist LPAs if a brief outline of procedural and legal compliance is submitted with the plan. This could usefully cover whether the plan has been prepared in accordance with the statutory procedures and the Local Development Scheme; whether consultation has been undertaken in accordance with the Statement of Community Involvement; whether the requirement for Sustainability Appraisal has been met and whether a Habitats Regulations Assessment has been prepared including any Appropriate Assessment required and the views of Natural England. In London, it could also state whether the Mayor has indicated general conformity with the London Plan. It is especially useful if any short commentary could be accompanied by references to relevant documents.

1.14. The evidence base should be properly referenced on submission, and submitted in both hard copy and electronic form<sup>7</sup> and placed on the Council's website. If LPAs submit a plan with an evidence base which is inadequate (or even missing) then delays will inevitably occur.

*Is the evidence base sufficiently up-to-date?*

1.15. Evidence base documents relating to retail, employment & housing that date from 3 or more years before the submission date are at risk of having been overtaken by events, particularly as they may rely on data that is even older. Key documents such as the Strategic Housing Land Availability Assessment (SHLAA), Strategic Housing Market Area Assessment (SHMA), and the Economic Needs Assessment, should be updated to incorporate findings/results from at least the year prior to submission.

*Has the evidence been presented in a coordinated and informative way?*

1.16. There are benefits in linking the evidence base to the content of the plan by use of footnotes referencing the documents and relevant paragraphs on which the Council relies to substantiate the policies/allocations. This is a great help to Inspectors when undertaking initial preparation on the plan and LPAs should ask themselves whether documents that are not referenced in the text of the plan really need to be included in the document library for the examination. This could help to reduce the large amount of evidence that is sometimes needlessly provided.

1.17. On occasion some recommendations in a study are not accepted by the LPA. In such cases care needs to be taken to ensure that an explanation is provided about why the recommendation was rejected. In

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<sup>7</sup> The inspector will discuss with the Programme officer his/her particular requirements around paper copies of any elements of the evidence base

addition, conflicts within the evidence base must be explained. Where lengthy explanations are needed it is best if a separate support document, cross-referenced in the plan, is used.

*Has a statement of compliance with the Duty to Co-operate been prepared?*

1.18. The most helpful approach is for LPAs to submit a Statement of Compliance with the Duty to Co-operate. This should identify the strategic matters and the key issues that need to be addressed, and then show that the parties have done all that they reasonably could have in trying to resolve the issues through co-operation (e.g. by including meeting notes and agreements in appendices). It is important that such a statement details the outcomes of co-operation and that it is not simply a statement of the consultation procedures adopted.

1.19. The Inspector will need to be satisfied that, within reason, all the various bodies have been given an adequate opportunity to influence the plan (not just been consulted on it), and that there have been serious discussions between the parties aimed at achieving an effective plan.

## THE EXAMINATION

### Section 2: Submission

#### Initial Tasks

2.1. 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 plan to the Secretary of State (in practice the Planning Inspectorate) including a complete, proportionate evidence base and regulation 22(c) statement.

2.2. From the Planning Inspectorate's perspective it is of paramount importance that the PO is established in post by submission stage. It is also 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.

2.3. Provided that the LPA has met the statutory and procedural requirements on submission, the Planning Inspectorate will appoint the Inspector. The Plans Team will assist the Inspector in setting the programme for examining the plan, allowing for the initial desk-based examination time, hearing sessions and reporting.

2.4. 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.

2.5. In general at least half of 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. The Procedural Timeline section of this guide provides an overview of the typical number of hearing days required dependent on the plan's complexity and level of controversial issues. If the hearing sessions are carefully structured around the critical issues affecting the soundness of the plan, 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 issues that are fundamental to the soundness of the plan.

### **Early Scoping**

2.6. Within the first 2 weeks administrators will do initial checks on the plan to consider whether it meets regulatory requirements (subject to the Inspector's consideration).

2.7. 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.

2.8. The examination process allows considerable flexibility for the way in which events may unfold. It enables the Inspector to hold procedural meetings or technical seminars (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 3: Preparation and Initial Examination

3.1. By week 3, the Inspector will commence early appraisal of the plan and make contact with the PO. This will enable the Inspector to begin to establish working arrangements. The Inspector will confirm the provisional start date for hearings, which alongside the considerations set out in this guide's Procedural Timeline, is often largely dependent on when the LPA can make a venue available for the hearing sessions. Therefore, it is important that the LPA seeks to secure the availability of a venue in advance of submission, although 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.

3.2. More in-depth reading of the documentation during this period should enable the Inspector to identify the matters and issues that will be the focus of the examination (after ensuring there are no fundamental flaws) 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 if and what additional material is needed from participants.

3.3. 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. He/she will consider if the changes do not result in a change to the plan's strategy, and whether they have been subject to public consultation (and 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.

3.4. Given that the LPA can make additional (i.e. 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.

## Identifying Matters and Issues

3.5. An early task for the Inspector is to establish the matters and issues for investigation in the examination and to pose relevant questions. The terms are used as follows:

- matters – these are the broad topics to be considered in the examination, for example housing provision, employment land provision, settlement strategy, flood risk;
- issues – these are the key issues on which the soundness of the plan will depend; and
- questions - these delve further into the issues and may in whole or in part be dealt with through correspondence at an early stage. If not resolved they will be investigated at the hearings part of the examination.

3.6. 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 or focus of the examination because the absence of representations on a matter is not a guarantee of soundness (and vice versa). Instead, the structure and focus 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 Flaws

3.7. The Inspector will seek to identify any fundamental flaws or concerns at the first possible opportunity. Early work may identify key issues or concerns that the Inspector will need to highlight and raise as significant questions at the earliest possible stage, prior to any hearing session.

3.8. If the Inspector forms an early view that the submitted plan may have serious shortcomings that indicate unsoundness, the Inspector will raise them with the LPA at this early stage. The concerns will be raised initially in writing (via the PO). If not subsequently resolved by an exchange of correspondence a specific hearing session may be held or exceptionally an EM may be arranged. Further detail on the way in which the Inspector will explore the most appropriate way forward with the LPA is set out in Section 9. Whichever method is adopted the Inspector will give the LPA every opportunity to respond to these concerns and address key issues that could otherwise make the plan unsound.

3.9. Inspectors should at least give a clear and firm indication of their concerns at this stage. Holding a hearing session may assist in providing an open and fair opportunity for the evidence to be properly tested. 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.

3.10. Further guidance on the procedures relating to an EM and suspension is provided in Section 9 'Exceptional Procedures' of this guide.

## **Allocating Participants to Hearings**

3.11. 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 9, paragraph 9.27-9.28).

3.12. The PO will assist the Inspector with the allocation of those who wish to be heard to an appropriate hearings session, bearing in mind the nature of the questions that the Inspector needs to probe at each session. Anyone who wishes to be heard but whose representations fall outside the ambit of the Inspector's agenda for specific hearings may be allocated to a general matters session at the end of the hearings. The PO should seek to explain to such representors that their representations do not go to the heart of the Inspector's issues and questions, to give them an opportunity to review whether they still wish to be heard or have the matter dealt with by written representations.

3.13. Bodies such as Highways England or the 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.

3.14. The first draft list 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. Those who have already indicated that they wish to be heard on their representation will be asked to confirm if this is still the case. This will enable the PO to clarify and confirm attendance at the hearing sessions as directed by the Inspector. The Inspector will seek to finalise the matters, issues and questions and the hearings programme as soon as possible and not normally later than week 8.

## Additional Written Material

3.15. Additional written material should not be put forward if not requested by the Inspector. For example, topic papers, 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.

3.16. 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.

3.17. The Inspector will, where necessary, revise and 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. These may be particularly helpful in the examination of technical matters e.g. needs' assessments. 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.

3.18. 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 will normally be the same for all parties.

## Guidance Notes

3.19. The Inspector will produce an initial Guidance Note 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.

3.20. 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

- clarify the basis for the examination; make clear the status of an addendum of focussed 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 PO<sup>8</sup> 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 for the examination is received, recorded and placed on the examination website, and that the examination library<sup>9</sup> is maintained;
- outline the procedures to be followed during the examination including the hearing sessions;
- 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 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 and the statements should not be accompanied by appendices or additional evidence unless specifically requested by the Inspector); 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

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<sup>8</sup> The Planning Inspectorate may also be able to provide PO training sessions for LPA employees - for further information please email [plans.admin@pins.gsi.gov.uk](mailto:plans.admin@pins.gsi.gov.uk). [Training notes can be found on the Planning Inspectorate's Local Plans page at gov.uk.](#)

<sup>9</sup> 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 London Plan ), or any other information likely to be used during the examination.

and have sought a change to the plan in their original written representation;

- set a deadline for submission 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;
- 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 questions; 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.

3.21. If a self-assessment document has not been provided on submission (see first bullet paragraph 1.12), the Inspector will seek written confirmation from the LPA at an early stage 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 was 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
- the LPA has provided a statement setting out how it has satisfied the requirements of the DTC.

## Section 4: Before Commencement of the Hearings

4.1. 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 normally expect to be required to produce their statements for the hearing sessions during weeks 5-7. 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

4.2. The Inspector will take account of the statements submitted in response to his/her list of issues and questions in setting any agenda for the hearing session. In most cases an agenda is likely to be helpful to confirm the order in which issues will be considered, take account of any points that have been sufficiently clarified by the written statements, or to set out further questions that the Inspector wishes to raise.

4.3. 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. 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. Occasionally, there may be a need to hold a technical meeting or seminar in advance of or during the hearings stage (see Section 9 Exceptional Procedures).

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



## Section 5: Hearing Sessions

### Managing the Hearing Sessions

5.1. 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.

5.2. 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.

5.3. 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, i.e. have been made within the dates set out by the LPA for receipt of consultation responses. 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 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.

5.4. As the hearing programme will be based on group sessions, parties wishing to appear will be expected to attend the sessions identified for them 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.

5.5. 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, such as the examination of a comprehensive 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

5.6. 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.

5.7. On the first day, the Inspector will open briefly, setting out the purpose and format of the hearing sessions as well as explaining the potential outcomes of the examination and any other relevant procedural and administrative matters.

5.8. If the matter has not 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

5.9. The Inspector will decide the procedure at the hearings. He/she will reinforce the message that there should be no formal presentation of evidence. 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) and subsequently confirmed this must be given the right to be heard. However, the Inspector determines the format for testing the evidence and will at all times adopt an inquisitorial approach.

5.10. The most common format will be hearing sessions to which a number of participants who have made representations on the same issue are invited. Hearings are the most efficient mechanism and should be capable of being used in examinations for all types of plan.

5.11. 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 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.

5.12. However, there may be rare 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 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 well in advance of the session. 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 and these are the only circumstances in which it will take place.

5.13. 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.

5.14. 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

5.15. 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 posing questions to one or more participants who have 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 assist the Inspector with his/her questions. 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.

5.16. 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.

5.17. 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

5.18. If a large number 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.

5.19. 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-memoire' for the Inspector and are not examination documents.

## Post-Submission Changes Initiated by the LPA

5.20. 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 an efficient 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 (or any other party) would make the plan sound/compliant.

5.21. 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 the 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.

5.22. The consultation on the proposed change may generate new representations. If so, in the interests of fairness, the Inspector will provide an opportunity to appear at the hearings to those who seek an amendment which follows directly from the LPA's proposed post-submission change(s)<sup>10</sup> to the plan.

5.23. 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 to allow further work to be carried out by the LPA, is provided in Section 9 'Exceptional Procedures' of this guide.

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<sup>10</sup> 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

5.24. The Inspector examines the plan (including any addendum of focussed changes 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). It should be noted that the Policies Map is not a development plan document and therefore it is not appropriate for Inspectors to recommend MMs to it. Rather the role of the Policies Map is to illustrate geographically the application of policies in the plan and it will be for LPAs to update this to ensure consistency with the adopted plan.

5.25. The purpose of the discussions at the hearings 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. 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.

5.26. 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. 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. The LPA will produce a schedule of proposed main modifications at the Inspector's request in order to carry out the consultation on them

5.27. 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 only about proposed MMs and not other aspects of the plan and that these are put forward without prejudice to the Inspector's final conclusions on the plan;
- all representations made upon the MMs will be taken into account by the inspector;

- the consultation document should include all proposed MMs, whether initially suggested by the LPA or put forward by the Inspector, and there is no need to distinguish between the two in the document; 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;
- additional modifications should not be included in the consultation exercise but if they are published for completeness at the LPA's request it should be made clear that they are not before the Inspector;
- the Inspector will not contemplate recommending a MM to remedy unsoundness or legal non-compliance unless any party whose interests might be prejudiced has had a fair opportunity to comment on it;
- the scope and length of the consultation on proposed MMs should reflect the consultation at regulation 19 stage (usually at least 6 weeks);
- 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.

5.28. 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 completely re-writing 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.

5.29. 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) request 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.

## After the Hearing Sessions

5.30. After the hearing sessions 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 will not be accepted.

5.31. 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. Unless specifically requested by the Inspector, no further correspondence or representations should be submitted during this stage of the examination.

5.32. The timing implications of any further work that needs to be undertaken by the LPA, together with the requirement for public consultation, will have a considerable bearing on when the report is to be delivered to the LPA for a 'fact check'<sup>11</sup>. The timing will largely be in the hands of the LPA, depending on how quickly it can take forward the necessary work. When the expected date of the report can be confirmed, the Plans Team will set this out in a letter to the LPA. When estimating the date for the fact check report, at least 3 weeks will be added for the internal QA process as set out in the tables on pages 8-9.

5.33. 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. LPAs are requested to keep 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 LPA 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.

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<sup>11</sup> Further information on the fact check stage is provided in Section 7.



## Section 6: The Inspector's Report

### Key Principles for Reporting

6.1. In drafting the report, the Inspector will concentrate on:

- reaching clear conclusions, backed by reasoned judgements, 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) 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.

6.2. 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.

6.3. Since the examination of a plan is not an inquiry into objections, reports will not summarise the cases of individual parties. Reports will avoid as far as possible any direct reference to specific representations or representors and will not describe discussions at the hearing sessions. The report will explain concisely 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

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

- *Non-Technical Summary*: this makes clear the outcome of the examination and where appropriate, briefly summarises the overall changes to the plan that would be made by the MMs and why these are necessary;



- *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)<sup>12</sup>;
- *Compliance with the Duty to Co-Operate:* this sets out whether the LPA 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 policy. 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 *Background* will be helpful to provide information on the context and purpose of the plan, including any recent changes in national policy or the adoption of other plans that may affect this;
- *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

6.5. When an Inspector recommends MMs, the PCPA requires that the report makes explicit that the plan as submitted (without the main modifications) should not be adopted and gives reasons why this is the case. The Inspector recommends 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 plan<sup>13</sup>. However, if the LPA proceeds

<sup>12</sup> See paragraph 3.3.

<sup>13</sup> s. 23(2)(3) of the PCPA

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

6.6. 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. The schedule will be based on the consultation document that was prepared by the LPA at the Inspector's request in order to carry out public consultation on the proposed MMs.

6.7. 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. There should be a clear reference in the schedule to what needs to be deleted from or inserted in the plan. Where a new or amended drawing, diagram or table needs to be inserted into the plan, the LPA will be asked by the Inspector to prepare the modified version which should be attached to the schedule.

6.8. 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 7: Fact Check Report for the LPA

7.1. The fact check report will be sent to the LPA in electronic format. The report will be copied to the Department for Communities and Local Government (DCLG). Section 21 of the Act, as amended by Section 145 of the Housing and Planning Act 2016, provides the Secretary of State with powers of intervention before a plan is adopted by a LPA.

### Responding to the Fact Check

7.2. 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.

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

## Section 8: Delivery of the Final Report

8.1. 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.

8.2. 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 (Regulation 25(1)). A list is available on the Planning Inspectorate website which shows the plans that have been submitted for examination and the outcomes<sup>14</sup>.

8.3. The LPA will be invoiced for the completed examination in accordance with the Service Level Agreement (SLA)<sup>15</sup> agreed between the authority and the Planning Inspectorate. There can be an interim situation where PINS will bill the LPA if the costs are over £75,000, and/or if it is the end of the financial year. 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.

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<sup>14</sup> This is regularly updated and can be viewed at the foot of the page at: Monitoring local plans <https://www.gov.uk/guidance/local-plans>

<sup>15</sup> The SLA covers the arrangements between the Inspectorate and the LPA for the examination and the delivery of the Inspector's report.

## Section 9: Exceptional Procedures

### Exploratory Meetings

#### Purpose

9.1. 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. These concerns should be raised at the earliest possible opportunity and the LPA should be given the opportunity to respond fully. An EM would follow only after the Inspector had written to the LPA in the first instance and an exchange of correspondence had not resolved likely problems of soundness and/or legal compliance. However, the preferred method is to seek to resolve such matters by means of written exchanges or by holding a hearing session so that all relevant views can be obtained.

9.2. An LPA should 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 9.18 – 9.24.

9.3. 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

9.4. 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 with a view to informing the way forward in the examination.

#### Participants, Notice and Timing

9.5. 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.

9.6. 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

9.7. 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.

9.8. 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.

9.9. 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 he/she will communicate 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

9.10. 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 suspension of the examination to enable the LPA to undertake additional work (suspension is covered in detail in paragraphs 9.13 – 9.17); 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. This should occur very rarely as the suspension mechanism provides considerable scope to rectify unsoundness in a plan.

9.11. An EM is an unscheduled element of the indicative examination timetable and it will introduce some delay into the examination programme. The extent of the delay will depend on the outcome of the meeting. If the issues are relatively easily resolved, the delay should only be a matter of weeks. However, where issues arise that will take longer to rectify, a longer suspension may ensue (see paragraphs 9.13-9.16) albeit this will be preferable to withdrawal and overall is likely to be the most expeditious route to getting a sound plan adopted.

9.12. The PO should circulate the notes of the EM.

## Suspension of the Examination

9.13. 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 the Inspector will consider fully with the LPA whether it would be appropriate for the Inspector to defer proceedings, i.e. pause the examination or formally suspend it, if further time would enable the Council to carry out additional work that would address one or more significant issues identified.

9.14. A suspension request may arise through a number of routes including written questions and further correspondence between the LPA and the Inspector; after an EM; following the completion of a section of

the hearing sessions or after 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).

9.15. Inspectors will make every effort to engage fully with the LPA in meaningful discussions to determine the scope and feasibility of any additional work needed. The LPA will need to set out a schedule which should cover the scale, nature and timetable for the work required to overcome the perceived shortcoming(s) of the plan. This may involve work on updating evidence so LPAs should be realistic in making their timing estimates. The Inspector will request regular updates on progress during the suspension period. During this time it may be helpful for the LPA to hold technical meetings with stakeholders (see 9.25-9.27) and other interested parties to outline and discuss the outcome of this additional work in an effort to resolve or minimise areas of disagreement.

9.16. Any proposed changes to the plan arising from the new work completed during a suspension (whether formal or informal) will need to undergo consultation so that interested persons have the opportunity to make representations about the changes. Furthermore, additional sustainability appraisal may be necessary to ensure compliance with the legal requirements and 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 2004).

9.17. It will also be helpful in some instances to explore a partial suspension of the examination with the LPA 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 timetable. However, partial suspensions will only be appropriate 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. Further hearings are likely to be required to consider the further work undertaken once completed.



## Pre-Hearing Meetings (PHM)

### Purpose

9.18. Exceptionally, a PHM may be required to deal with 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 programme and matters for the examination. A PHM can help to ensure the smooth running of unusually complex examinations. However in the vast majority of cases the information may just as easily be disseminated in the Inspector's initial Guidance Note (see paragraphs 3.19 - 3.20). 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.

9.19. 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 particular matters that have necessitated a PHM being held will be discussed. The PHM 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

9.20. 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.

9.21. 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.

9.22. 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.

9.23. 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.

9.24. 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 and Technical Meetings

9.25. If a plan raises complex, 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. However, before arranging a technical meeting the Inspector may seek statements of common ground/matters in dispute as a first step towards clarifying and explaining methodological and other points arising from technical evidence and this may be sufficient for his/her purposes.

9.26. If a technical seminar 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 seminar which will be held in public. Notification procedures for technical seminars should be the same as for exploratory meetings.

9.27. Occasionally the Inspector may ask the LPA to hold a technical meeting with stakeholders and interested parties during the course of an examination, aiming to resolve or minimise the issues in dispute. These meetings are held outside the formal examination process, without the Inspector being present, but the outcome of any such meetings should be published.

## Witness Summons

9.28. There is no power to summon a witness to an examination hearing. 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 representations<sup>16</sup> seeking a change to the plan.

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<sup>16</sup> 'Representations' are those made within the terms of regulations 19 and 20.

## Annex 1:

### Model Representation Form and Guidance for 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 plan 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 has not been the subject of previous representations.

**Model Representation Form for Local Plans**

LPA Logo	<p><b>Local Plan</b> Publication Stage Representation Form</p>	<p>Ref:</p> <p>(For official use only)</p>
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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)
<i>* 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.</i>	
Title	<input style="width: 100%;" type="text"/>
First Name	<input style="width: 100%;" type="text"/>
Last Name	<input style="width: 100%;" type="text"/>
Job Title (where relevant)	<input style="width: 100%;" type="text"/>
Organisation (where relevant)	<input style="width: 100%;" type="text"/>
Address Line 1	<input style="width: 100%;" type="text"/>
Line 2	<input style="width: 100%;" type="text"/>
Line 3	<input style="width: 100%;" type="text"/>
Line 4	<input style="width: 100%;" type="text"/>
Post Code	<input style="width: 100%;" type="text"/>
Telephone Number	<input style="width: 100%;" type="text"/>
E-mail Address (where relevant)	<input style="width: 100%;" 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"/>	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 Matter 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 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 2004<sup>17</sup> (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)<sup>18</sup> 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)<sup>19</sup>. 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 various persons and organisations set out in the Regulations and any persons who have requested to be notified.

<sup>17</sup> View at <http://www.legislation.gov.uk/ukpga/2004/5/contents>

<sup>18</sup> LDDs are defined in regulation 5 – see link below.

<sup>19</sup> View at <http://www.legislation.gov.uk/uksi/2012/767/contents/made>



- The LPA is required to provide a Sustainability Appraisal Report when it publishes a plan. This should identify the process by which 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).

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 London Plan)? 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 inadequate having regard to legal compliance, the duty to cooperate and the four requirements of soundness 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 Plan

#### 1. Introduction

1.1. The original guidance note on this topic provided information and advice on how to carry out a fast track review of specific policies in plans following the publication of the National Planning Policy Framework (NPPF). While it is now some years since NPPF was published, the guidance may continue to be helpful for LPAs when considering limited reviews of specific elements of an adopted plan.

1.2. The NPPF provides that for the purposes of decision-taking the policies in the local plan<sup>20</sup> should not be considered out of date simply because they were adopted prior to the publication of the Framework (on 27<sup>th</sup> March 2012). The policies contained in the Framework are material considerations which local planning authorities must have regard to when preparing plan policies. Plans may need to be reviewed to take into account the policies in the Framework or new national planning policy. 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 LPAs speed up partial reviews where they only need to review one or a small number of specific policies in their plans.

#### 2. Context

2.1. The examination element of the process starts from the time the LPA submits its plan to the Planning Inspectorate - usually around 6 months prior to anticipated adoption.

2.2 The Planning Inspectorate has 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 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 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 LPAs.

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

<sup>20</sup> The National Planning Policy Framework glossary defines 'Local Plan'.

2.5. LPAs 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 plan documents in the 2012 Regulations. Please contact the Planning Inspectorate to discuss further.

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

- 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 LPAs to speed-up partial reviews.

### **3. The Role of the LPA**

3.1. Reducing the overall timescale for updating plans is highly dependent on the nature of the issues that the LPA wishes to amend in its plan, what knock-on environmental impacts must be assessed, and the availability of sufficient resources to meet the task of the review. LPAs 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 issues which require more extensive discussion do not arise which legally require further longer discussion during the examination period.

3.2. Firstly a Programme Officer should be appointed by the LPA to manage the process of review. The LPA 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 LPA 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 LPA is 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 meeting statutory notice requirements.

3.4. Under current regulations, LPAs must give 6 weeks' notice of the start date of hearings (if anyone exercises their right to be heard or the Inspector considers one to be necessary). Subject to the LPA meeting a fixed submission date, the opening date for the hearing sessions can be agreed with the Planning Inspectorate in advance of submission. The LPA 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 relies on all parties playing their part in ensuring the process deadline is met. It assumes:

- that the LPA has nominated and adhered to a fixed submission date;
- that the Inspector is appointed prior to formal submission of the plan;
- that the LPA 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 LPA is not proposing pre-submission changes to the plan 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)

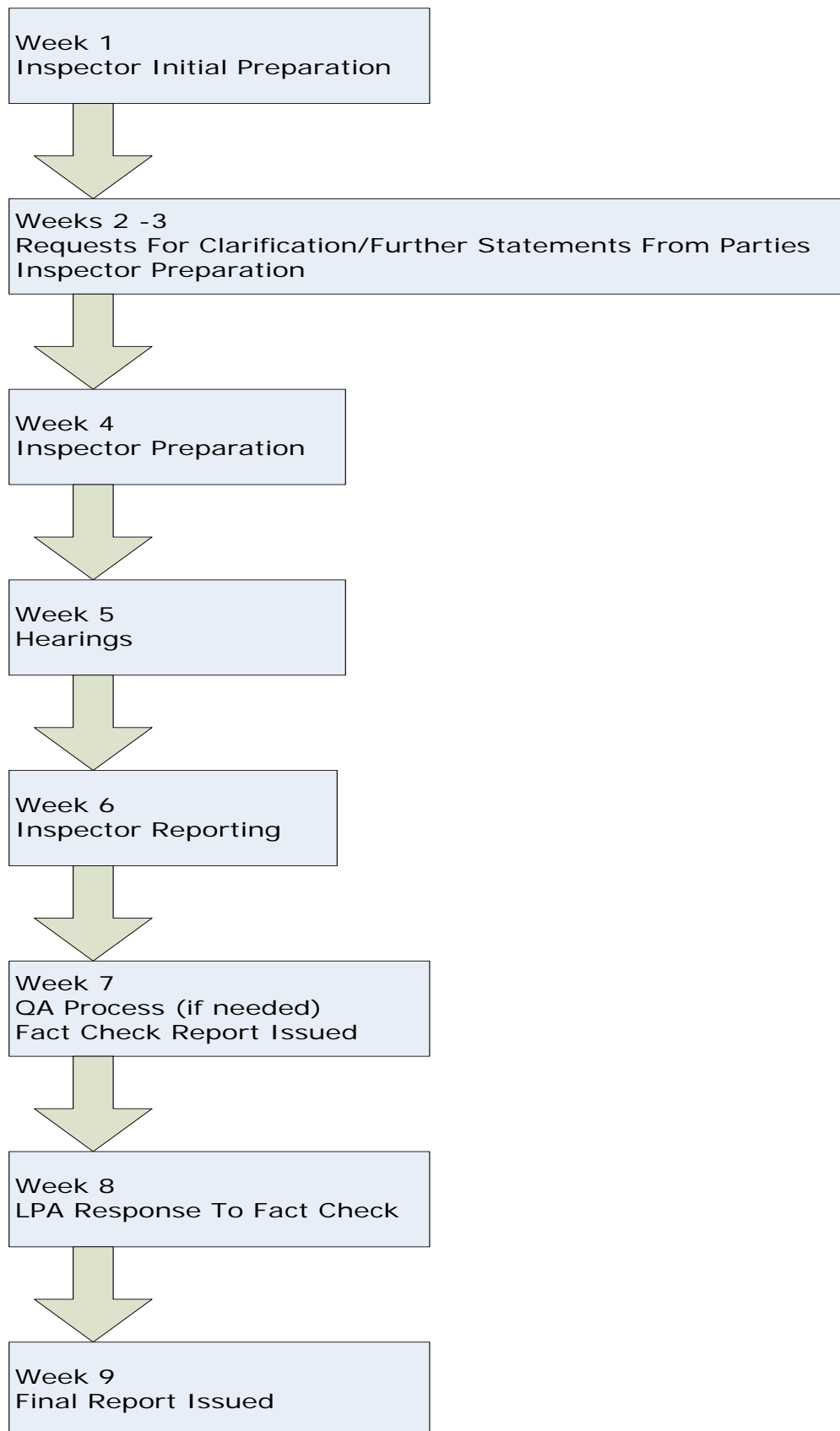
5.1. Figures 3 (overview) and 4 (detail) shows how an examination into a specific policy issues review which can be examined by written representations would be conducted. The considerations are:

- that no person has exercised their right to be heard i.e. hearing sessions are not required;
- that the LPA 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 LPA is not proposing pre-submission changes to the plan 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
- That there will not be a quality assurance process additional to Fact Check from the LPA.

## 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 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](mailto:Plans.Admin@pins.gsi.gov.uk)

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



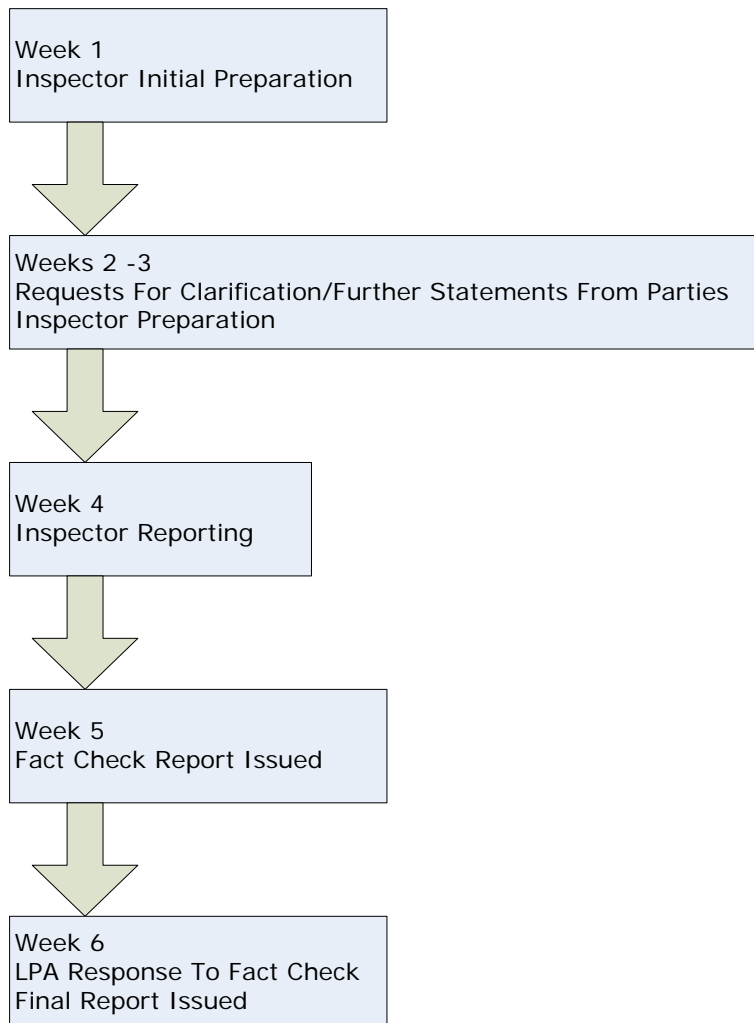
**Figure 2: Plan with hearing sessions on a single Policy Review examination lasting 1-2 days**

Week	Key Actions
Week 1	<ul style="list-style-type: none"> <li>• The LPA submits 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.</li> <li>• It is very important that the Programme Officer (PO) is in place by submission given there is no post submission consultation stage.</li> <li>• The Inspector will commence early appraisal of the plan and make contact with the PO.</li> <li>• Subject to no fundamental or cumulative flaws in the 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.</li> <li>• 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 (topic papers should be part of the evidence base submitted with the plan).</li> <li>• The Inspector takes charge of the process of what may be submitted.</li> </ul>
Weeks 2 - 3	<ul style="list-style-type: none"> <li>• The PO sends initial letter to the participants, programme for hearing sessions including matters/issues and circulates the Inspector’s Guidance Notes</li> <li>• The LPA and participants will work on providing any material requested by the Inspector. LPA prepares answers to any matters and issues raised by the Inspector in the early correspondence.</li> <li>• The LPA and other participants in the examination will have around 2 weeks to produce their statements for the hearing session.</li> </ul>
Week 4	<ul style="list-style-type: none"> <li>• Responses and statements from the LPA and participants due.</li> <li>• The PO clarifies and confirms attendance at the hearings.</li> </ul>
Week 5	<p><u>HEARING SESSIONS COMMENCE.</u></p> <ul style="list-style-type: none"> <li>• The hearing sessions form an important part of the examination process; all participants should attend on the relevant day.</li> <li>• The Inspector will announce the report delivery</li> </ul>



	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"> <li>• Inspector reporting</li> <li>• 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).</li> </ul>
Week 7	<ul style="list-style-type: none"> <li>• If required, the report will be subject to an internal QA process in the Inspectorate before despatch. This process will take around 1 week.</li> <li>• Following the QA process the report will be despatched to the LPA for fact check.</li> </ul>
Week 8	<ul style="list-style-type: none"> <li>• The LPA has 1 week to carry out the fact check.</li> </ul>
Week 9	<ul style="list-style-type: none"> <li>• The Inspector will respond to the fact check matters raised by the LPA.</li> <li>• Final report will be issued.</li> </ul>

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



**Figure 4: Plan with no hearing sessions i.e. dealt with by written representations**

Week	Key Actions
Week 1	<ul style="list-style-type: none"> <li>• The LPA submits 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.</li> <li>• It is very important that the Programme Officer (PO) is in place by submission given there is no post submission consultation stage.</li> <li>• The Inspector will commence early appraisal of the plan and make contact with the PO.</li> <li>• Subject to no fundamental or cumulative flaws in the 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 the Inspector, not create counter-arguments and rebuttals.</li> <li>• 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 (topic papers should be part of the evidence base submitted with the plan).</li> <li>• The Inspector takes charge of the process of what may be submitted.</li> </ul>
Weeks 2 - 3	<ul style="list-style-type: none"> <li>• The PO sends initial letter to the participants including matters/issues and deadline for submission of further responses (if required by Inspector).</li> <li>• The LPA and participants will work on providing any material requested by the Inspector. The LPA prepares answer to any matters and issues raised by the Inspector in the early correspondence.</li> <li>• The LPA and other participants in the examination will have around 2 weeks to produce their statements.</li> </ul>
Week 4	<ul style="list-style-type: none"> <li>• Responses and statements from LPA and participants due. The Inspector will announce the report delivery date via a letter to the LPA</li> <li>• Inspector reporting</li> </ul>
Week 5	<ul style="list-style-type: none"> <li>• The report will be despatched to the LPA for fact check.</li> <li>• The LPA has 1 week to carry out the fact check.</li> </ul>
Week 6	<ul style="list-style-type: none"> <li>• The Inspector will respond to the fact check matters raised by the LPA.</li> <li>• Final report will be issued.</li> </ul>