



PINS NOTE 26/2012r2

To: All Salaried Inspectors, Planning Casework and Chart Staff (England)

Date of Issue: 19 October 2012

Last updated: 30 October 2012 – Change to Reason for Failure and period attributable to Chart

Currency: review at 6 months after amendment

THE PLANNING GUARANTEE

Background:

Introduction

1. The Plan for Growth (March 2011) announced the introduction of a 'planning guarantee', that it should take no longer than 12 months to determine a planning application, including any appeal. The Guarantee applies to s78 planning appeals, including HAS, and in England only¹.
2. DCLG stated that 'The guarantee places an equal expectation on local planning authorities and the Planning Inspectorate that they (each) deal with cases in no more than 26 weeks'. In practical terms this means that our previous target of deciding 80% of s78 cases (inc HAS) in 26 weeks was replaced by one for 100% in 26 weeks.

Monitoring

2011/12

3. Although we operated to, and exceeded, the 80% target last year, and reported against it at year end in the Annual Report and Accounts, we were subsequently asked to report our performance against the (100%) Guarantee from April 2011. Performance is measured from the Start date to the Decision date (as recorded on PCS).
4. Our performance in 2011/12 was 97%, with 366 cases taking longer than 26 weeks. We also provided Ministers with the (main) reasons why the cases did not meet the Guarantee target.

¹ Certain exceptions apply – Secretary of State cases, Redeterminations, Bespoke appeals and s78 appeals linked to Enforcement appeals are excluded.

5. Determining why cases missed the 26 week target was complicated, and involved reviewing a number of different sources, including the appeal file where it was still available, for each appeal that 'missed'.

2012/13

6. For the current year, our ability to meet the Guarantee has been affected by a number of factors outside our control, such as the need for reference back to the parties following publication of the National Planning Policy Framework, and the impact of the Olympics/Paralympics. So by the end of September this year, more than 500 appeals had already missed the Guarantee. We therefore need to do all that we can to ensure as many cases as possible meet the Guarantee in the remaining part of the year.
7. We will also need to report the reasons why we missed the target on the 400 cases, and any other that we miss in the remainder of the year. To do so, we need to identify the reasons for those that have already 'missed'. We will also have to put in place a simple yet robust system that enables us to do so for those that miss in future.

2013/14

8. For 2013/14 failures against the guarantee will continue to be monitored in the same way as for 2012/13. However, the period against which Chart is determined as the failure point for not scheduling event in target is extended to 22 weeks.

Action:

Business Improvement (BI) team

9. Assist managers in Procedure and Chart, and Group Managers/Sub-Group Leaders, to identify cases 'at risk' of missing the target. This includes reinstating reports previously found useful (for example the weekly report of cases where the Inspector's personal target is imminent).
10. Maintain the central record of appeals that miss the Guarantee, collating information supplied by Procedure, Chart and others.
11. Collate the required report to submit to Ministers via DCLG.

Admin Heads of Service, Group Managers/Sub-Group Leaders, CPI unit, QAU

12. As previously discussed at the Performance and Resources Group and at various Sub-Group/Branch meetings, proactively manage 'at risk' cases to minimise the chance of them failing to meet the Guarantee. Cases that are approaching the 26 week target date should be given priority.

Procedure staff

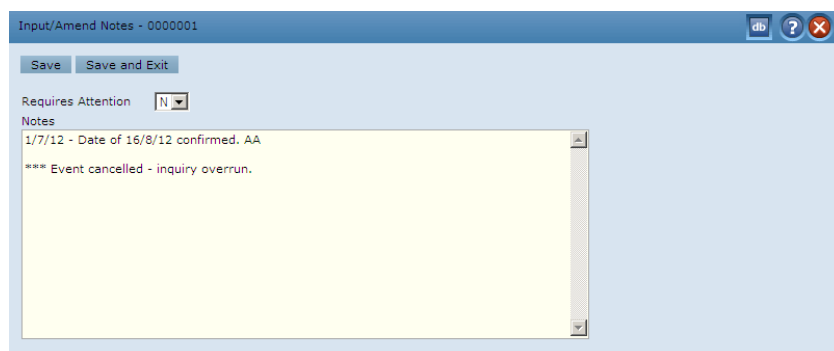
13. Remember to ensure that the Planning Guarantee 26 week target is prominently displayed on all s78 files/HAS folders. Note: The Guarantee is

applied to each appeal separately so the 26 week target should be added to every file/folder, even where they are linked/travelling together.

14. Ensure that, where appropriate, appeals are restarted when there is a change of procedure, so that performance can be measured from the latest Start date. Appeals should be restarted before creating the revised INT3/4 as it will contain the new start date.
15. Treat s78 appeals as the lead when they are linked to s20 cases to ensure that they are subject to the 26 week Planning Guarantee target.
16. Create a File Comment on PCS to identify delays – see Annex.
17. Desk Instructions are being amended to reflect the above.

Chart staff

18. Note that the INT3/4 for appeals restarted following a change of procedure will contain the revised Start date.
19. Add a File Note to ISS to identify any s78 cases excluded from the Planning Guarantee ie Secretary of State cases, Redeterminations, Bespoke appeals and s78 appeals linked to Enforcement appeals.
20. Create a File Note on ISS to identify delays – see Annex.



Sub-Group Leaders

21. Using the 'at risk' information supplied by the Business Improvement team, proactively manage cases to ensure they are delivered in target wherever possible.

Inspectors

22. Manage events so as to minimise the chances of overruns/adjournments.
23. Following the issue of this Note, Procedure staff will be treating the s78 appeal as the lead where it is linked to a listed building or conservation area consent appeal. In the meantime, please treat such cases as being subject to the 26 week target rather than the longer timescales associated with s20 casework.

24. Where one or more Costs applications have been made, there is no reason to delay sending in the appeal decision to await the Costs decision(s) - ensure that the appeal decision is submitted in sufficient time for it to be despatched by the 26 week target date.
25. Remember to include the 26 week target date in the subject line when sending your decisions to the office. In addition, where that target is imminent, mark your e-mail as Urgent.
26. Use the Comments field on MWR to record delays (see example below). The Annex to this Note identifies the categories and wording to use.

Case Ref	Proc	CWT	Stage	Day	Hours	Trans	Z/Time	Memo
0000001	H	A	REP	Mon	2.00			Further info required post event
0000001 Full Case Status				Waiting for Reps		Inspector Submit		

Despatch staff

27. Continue to give priority to the despatch of decisions where the 26 week target date is imminent.
28. Note that linked s78/s20 appeals may carry the target date for the s20 case, which could be later than the 26 week target.
29. Where an appeal is despatched out of target, colour code the appeal on PCS using Blue.

The screenshot shows the Fabasoft eGov-Suite 7.0 interface. The user is 'Laurie Fiddock' with the role 'Officer (SAC (Specialist Appeals and Call-ins))'. The interface includes a search bar, a 'Search Result' section, and a table of results. The table has columns for Name, Local Planning Authority, Processing State, and Decision date. The first result is 'APP/Q9999/A/12/2176566' from 'System Test Borough Council' with a processing state of 'In Progress'.

30. Where a decision covers more than one planning appeal, ensure that each one that misses the 26 week target date is colour coded on PCS.
31. A separate Briefing Note has been produced for Non salaried Inspectors, and the Annex to this Note has been amended to add reference to recording of reasons by CMU on behalf of NSIs.
32. Please contact XXXX if there has been a delay that does not fit into any of the categories in the Annex.
33. We each have an important part to play in meeting the Planning Guarantee for as many appeals as possible. If you have any suggestions to help with this process, or any queries, please contact XXXX

XXXX
Director of Casework and Plans

XXXX
Chief Planning Inspector

19 October 2012

ANNEX: DELAYS AFFECTING HAS/S78 APPEALS DECIDED BY INSPECTORS

(exc Bespoke, Redetermined and those linked to s174/s39/LDC cases)

Reason Description	Recorded by/on	Record as
Abeyance Examples include cases that have been placed in a period of abeyance so that the parties can negotiate an agreement without the need for the case to be decided by an Inspector, usually a period to allow a local authority to decide a separate application for the same site.	By: Procedure On: PCS File Comment	‘Abeyance’ plus the period in weeks
Additional reporting Case more complex than originally anticipated / additional evidence submitted / sitting days increased	By: Chart following advice from Procedure or Inspector On: ISS File Note	‘*** Additional Reporting’ plus reason why (eg Complexity)
Adjourned The event can be adjourned by the Inspector due to the evidence not being fully examined within the time set out, new evidence emerging that required examination or representations, or witnesses being unexpectedly unavailable (eg ill).	By: Inspector <u>or</u> CMU On: MWR Comment	‘Adjourned’ plus reason why (eg illness of key witness)
Allocation late/not sent to Chart Lead s78 appeals should be exported to Chart on PCS either once validated (HAS and LI) or at 2 weeks (WR and H).	By: Procedure On: PCS File Comment	‘Allocation sent late’ plus reason why
Awaiting further detail post event Where an Inspector requests information to enable them to make a fully informed decision.	By: Inspector <u>or</u> CMU On: MWR Comment	‘Further info required post event’
Cancelled from Inspector programme Where Chart have had to adjust an Inspector’s programme for example to take account of illness or the overrun of an inquiry.	By: Chart On: ISS File Note	‘*** Event cancelled’ plus reason why (eg Inquiry overrun)
Death of appellant during the course of the appeal	By: Procedure On: PCS File Comment	‘Death of appellant’

Reason Description	Recorded by/on	Record as															
Despatch delay Decision was submitted by the Inspector but decision not sent out by the target.	By: Despatch On: PCS File Comment	'Despatch delay' plus reason why (eg Leave, below FTE)															
Event not allocated in target / agreed outside target The appellants / local authority were unable to have representation / witnesses available until a date beyond when the case could meet the target date. To avoid an increased possibility that an earlier event date would be adjourned an event date beyond the target date was agreed by PINS. <table><tr><td></td><td>'Not earlier than' date (Start date +...)</td><td>'Not later than' date (Start date +...)</td></tr><tr><td>HAS</td><td>14 days / 2 weeks</td><td>35 days / 5 weeks</td></tr><tr><td>S78 Written Reps</td><td>63 days / 9 weeks</td><td>154 days / 22 weeks</td></tr><tr><td>S78 Hearing</td><td>70 days / 10 weeks</td><td>154 days / 22 weeks</td></tr><tr><td>S78 Inquiry</td><td>70 days / 10 weeks</td><td>154 days / 22 weeks</td></tr></table> .		'Not earlier than' date (Start date +...)	'Not later than' date (Start date +...)	HAS	14 days / 2 weeks	35 days / 5 weeks	S78 Written Reps	63 days / 9 weeks	154 days / 22 weeks	S78 Hearing	70 days / 10 weeks	154 days / 22 weeks	S78 Inquiry	70 days / 10 weeks	154 days / 22 weeks	By: Procedure On: PCS File Comment OR By: Chart On: ISS File Note This information should be recorded for each event that is after the 'not later than' date. It will be used as part of the assessment of reasons if the decision is not issued within 26 weeks of the Start date.	'Late Event' plus reason why (eg Witness availability) OR '*** Late Event' plus reason why (eg Witness availability)
	'Not earlier than' date (Start date +...)	'Not later than' date (Start date +...)															
HAS	14 days / 2 weeks	35 days / 5 weeks															
S78 Written Reps	63 days / 9 weeks	154 days / 22 weeks															
S78 Hearing	70 days / 10 weeks	154 days / 22 weeks															
S78 Inquiry	70 days / 10 weeks	154 days / 22 weeks															
Inspector missed personal target For example where the Inspector is ill, but excluding where additional reporting is required, the event is adjourned, further information is awaited (see above entries) <table><tr><td></td><td>Personal target (days from event/last sitting date)</td></tr><tr><td>HAS</td><td>14 days</td></tr><tr><td>S78 Written Reps</td><td>21 days</td></tr><tr><td>S78 Hearing</td><td>28 days</td></tr><tr><td>S78 Inquiry</td><td>28 days</td></tr></table> .		Personal target (days from event/last sitting date)	HAS	14 days	S78 Written Reps	21 days	S78 Hearing	28 days	S78 Inquiry	28 days	By: Inspector On: MWR Comment	'Missed personal target' plus reason why (eg Sick leave)					
	Personal target (days from event/last sitting date)																
HAS	14 days																
S78 Written Reps	21 days																
S78 Hearing	28 days																
S78 Inquiry	28 days																
Judicial Review The case was affected by the result of a High Court or Judicial Review decision.	By: BI team On: PG database	'Judicial review'															

Reason Description	Recorded by/on	Record as								
NSI missed Standard Service level For example where the Inspector is ill, but excluding where additional reporting is required, the event is adjourned, further information is awaited. <table><tr><td></td><td>Standard Service Requirement (days after Site Visit)</td></tr><tr><td>HAS</td><td>5 working days</td></tr><tr><td>S78 Written Reps read pre issue</td><td>10 working days</td></tr><tr><td>S78 Written Reps</td><td>15 working days</td></tr></table> .		Standard Service Requirement (days after Site Visit)	HAS	5 working days	S78 Written Reps read pre issue	10 working days	S78 Written Reps	15 working days	By: CMU On: MWR Comment	'Missed personal target' plus reason why (eg Personal illness)
	Standard Service Requirement (days after Site Visit)									
HAS	5 working days									
S78 Written Reps read pre issue	10 working days									
S78 Written Reps	15 working days									
Judicial Review The case was affected by the result of a High Court or Judicial Review decision.	By: BI team On: PG database	'Judicial review'								
Policy A case required clarification of policy (eg NPPF write out or the adoption of a new Local Plan).	By: Procedure On: PCS File Comment	'Policy' plus reason why (eg NPPF or New Dev Plan)								
Postponed When an event has been confirmed by PINS but then it is subsequently cancelled. In the majority of cases this is because appellants or local authorities are unavailable. Also where (a) the LPA fail to notify interested parties, (b) both the appellant and local authority should attend a site visit but one party fails to appear (and therefore the Inspector has to visit the site again at a later date), or (c) where the allocation changes and the planned Inspector is no longer suitable.	By: Chart On: ISS File Note Where an event is Postponed, Chart will need to identify the reason, consulting Procedure as appropriate.	'*** Event postponed' plus reason why (eg Appellant failed to attend)								
Procedural issues Procedural problems include delays when the procedure decided by PINS is challenged. If the appeal is linked 9 weeks or more after the start date, then this will be recorded as the reason for failure against procedural issues.	By: Procedure On: PCS File Comment	'Procedural issue' plus reason why (eg LPA challenge to procedure)								
Reading Relates to pre-issue reading (by CPI unit/QAU) only. Target for completion of the reading process needs to allow sufficient time for the decision to be despatched in target.	By: BI team On: PG database	'Reading'								

Reason Description	Recorded by/on	Record as
Validity issues Validity issues include cases where a required consultation did not take place at application stage, and we need to ensure that it has been done at appeal stage.	By: Procedure On: PCS File Comment	'Validity issue' plus reason why (eg Consultation not undertaken)