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| Planning Advisory Service |
| PAS Development Management Challenge Toolkit |
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| Appeals |



# Introduction

Appeals form one of 15 sections of the [PAS Development Management Challenge Toolkit](https://www.local.gov.uk/pas/development-mgmt/development-management-challenge-toolkit). Please refer to the PAS website for information on the other 14 sections and further background to the toolkit.

It is really important to properly resource appeals and have a clear process. Different Councils operate in different ways which might involve a designated officer to undertake appeals or it might be the responsibility of the case officer. Also, different appeals need different levels of resources and expertise with informal hearings and public inquiries needing a considerable amount of attention. However, if a Council does not properly resource and manage appeals it can be very damaging for the Council both in terms of reputation and potentially large costs against a Council.

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

# How to use it

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

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

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

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

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

# How to involve staff in the discussion

It is particularly important that all staff involved in the appeals process are involved in the discussion from technical support staff who might administer an appeal under the direction of PINS, to the officers who present and write appeal statements to the managers who take responsibility for the outcome of decisions made by PINS.

# Facilitator’s tips

* Ask yourself challenging questions such as: Do we agree with excellent? Do we agree with poor? Are the tips helpful? What do we need to do if anything to change?
* Make sure you have someone to write down your conclusions and check what has been written before moving on to the next session. It is really important to ensure everyone’s thoughts are represented accurately
* The scores are there to help you conclude the effectiveness of your Development Management service but do not spend too long debating the scores, they are only there to give you guidance and to stimulate debate
* As always it is about getting the right people in the room and making them comfortable to contribute. Some staff may feel that their contribution is not as important as others. Make sure it is inclusive and everyone’s views are given equal weight
* Some staff may feel uncomfortable when some topics are discussed. Ultimately you need to decide whether all staff should be involved in the whole session, but the toolkit works best when staff are able to express their views openly without fear of repercussion.
* This process can work really well with people from different councils so that services can learn from each other and suggest ways of working together in the future.
* Many issues that people identify can be tackled at a number of different levels. Encourage people to think of what they could just do on Monday, as well as the bigger trickier things that need buy-in.
* It is normal for you to speed up as you get to the end of each section as everyone gets tired and you run out of time. You may well find that you have already discussed a matter that is highlighted at the end of the setion. The toolkit is designed to have some duplication to make sure you don’t forget important aspects of the Development Management service. There are no hard and fast rules so skip over things if they are not so relevant to you or you have covered them earlier.
* Always agree on a follow-up action plan that will result from the discussions, otherwise the ideas, enthusiasm and momentum will be lost.

# For more information & Help

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

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

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| **A poor Development Management Service (score 1)** | **An excellent Development Management Service (score 5)** | **Top tips** |
| There is not much consistency in how appeals are managed and it really depends on the officer involved. There is no effective risk assessment carried out by managers so it relies on the officer assigned to the appeal to manage the process. There have been a number of recent appeals lost and costs awards against the Council because officers have failed to defend the case effectively, have missed key deadlines, or have failed to provide relevant information. | There are clear officer procedures in place for dealing with appeals to ensure that the cases are quickly allocated, officers know what is expected of them and all the deadlines set by PINS are met. The right managers are aware of the appeals submitted and can support officers as necessary in defending appeals through effective project management. | 1. Have a clear process in place so that whoever deals with appeals follows a consistent process with template statements of case reports
2. Establish a project team to manage informal hearings and public inquiries so that officers allocate appropriate time to defend the appeal and all deadlines are met
3. Provide regular reports on appeal deadlines to make sure deadlines are not missed
4. Carry out officer training either internally or externally to ensure all officers understand what is expected of them. This is particularly important for informal hearings or public inquiries
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| **EVALUATION QUESTIONS****What score have you agreed on?****Why have you given it this score?****What score would you like to get to?****If this isn’t a 5, why is it lower?****What top tips are you going to take up?****What other actions have you identified?** |

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| If there is a costs claim against the Council it is left up to the officer managing the appeal to decide how to defend it. Often there is no time to do this so it is left to the Inspector to make the call without a defence put in place by the Council. The Council has had to put a budget against cost awards because many succeed against the Council. Cost claims are almost never made against an applicant and most officers do not even realise this is an option. | There is a clear process in place to both defend a cost claim against the Council and to make a cost claim against an applicant. Officers have an understanding of when it is appropriate to make a cost claim against an applicant and the right level of support is given to officers in a timely way to defend a costs award against the Council. | 1. Introduce a process whereby managers are immediately informed if a cost claim is made against the Council so that they can support officers in defending against costs
2. If the cost claim resulted from an overturn at the Committee involve the Members of the Committee in defending the cost claim
3. Provide training to officers so that they understand the way costs can be claimed against the applicant to enable them to flag up appropriate cases with managers when appropriate
4. Consider external training for both Members and Officers on making defendable decisions e.g. [PAS training](https://www.local.gov.uk/pas/development-mgmt/planning-committee)
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| The appeal decisions are simply uploaded onto the website and no further discussion takes place unless the matter is specifically raised by councillors or managers. Appeals are lost for similar reasons because lessons have not been learned and it relies on officers to pick up this trend through memory or referring to planning histories. There is no item on Committee agendas to discuss appeals. | Every appeal decision is seen as a learning opportunity. If an appeal is successful the appeals officer is suitably praised and a record is made of the correct use of policy. If an appeal is lost then a review is undertaken on why the refusal reasons were unsuccessful. If appropriate this is discussed with managers and officers so that there is effective learning from the decision. A summary of appeal decisions is also presented to the Committee so that learning points can be raised with Members if necessary. | 1. Create a simple summary report to report to the Committee and include appeal decisions as a regular Planning Committee item so that learning points can be discussed and minuted
2. Raise appeals as a regular item in officer and manager meetings so that lessons can be learned
3. Use specific examples in officer and councillor training to illustrate where an appeal went well or went badly
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| There is no monitoring of appeal decision outcomes so the council has no understanding on how it is performing against the [DLUHC quality performance criteria](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1112048/Improving_planning_performance_2022_WEB.pdf). There is also no monitoring of decisions taken by the Planning Committee that are contrary to officer recommendations and the subsequent outcome of any appeal that is lodged by the applicant.  | Appeal performance is a key part of ongoing performance monitoring for the council and performance against the DLUHC quality performance criteria is known by the council is known well in advance of the published DLUHC data. If a Planning Committee decision is contrary to an officer recommendation and subsequently upheld at appeal, then there is a lessons learned session with Members and officers. | 1. Monitor the quality of decision-making as part of regular performance monitoring
2. Consider asking [PAS to undertake a role-playing training session with the Planning Committee](https://www.local.gov.uk/pas/development-mgmt/planning-committee)
3. Carry out regular reviews of ongoing appeals to forward plan likely appeal overturns and use it to predict possible future quality performance
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| **SUMMARY OF ACTIONS TO FOLLOW UP** |