



HEADS OF PLANNING SCOTLAND'S INPUT TO THE WORKSTREAM ON PLANNING FEES AND PLANNING PERFORMANCE

“Scottish Ministers expect a planning system that is reliable, proportionate, and provides a service that is focused on delivery which is able to develop, share and adopt good practice for continuous improvement”.

Extract from the Scottish Government Consultation Paper on “Raising Planning Fees”, December, 2016

“The planning service must have the resources it needs to deliver the world class service our communities deserve and our economy needs”

“Our aim would be to fully recover the costs of a high performing development management process, and those other parts of public services that directly support it”

“Higher fees must be accompanied by a much improved service”.

Extracts from the Scottish Government Consultation Paper, “Places, People and Planning”, published in January, 2017.

Report compiled for Heads of Planning Scotland (HOPS)

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CONTENTS PAGE

1.0 Introduction (Pages 3-6)

2.0 HOPS views on the Independent Review Report Recommendation 37 - Increase major application fees. (Pages 6-10)

3.0 HOPS views on the Independent Review Report Recommendation 38 - Discretionary Charges. (Pages 10-11)

4.0 HOPS views on the Independent Review Report Recommendation 39 - Improved performance and removal of the penalty clause. (Pages 11-15)

5.0 Conclusions. (Pages 15-16)

6.0 HOPS recommendations to Scottish Government. (Pages 16 -18)

APPENDICES (Pages 18-31)

Appendix 1- Costs in the Planning Service, Gilder,1999 - Pages 19-20.

Appendix 2- Resources for Planning, Arup, Allmendiner, Peart and Anderson Strathearn WS, 2005- Pages 20-21.

Appendix 3- Review of Fees for Planning Authorities, Arup,2009- Pages 22-25.

Appendix 4 - Investing in Delivery- How we can respond to the pressure on Local Authority Planning, Arup, 2015 – Page 26.

Appendix 5- Costing the Planning Service Project- Headline Results- Heads of Planning Scotland, 2013/2014- Page 27.

Appendix 6- Peer review on the Planning Performance Framework, Heads of Planning Scotland, 2016- Pages 28-29.

Appendix 7 – HOPS Benchmarking Groups Feedback, November, 2016- Pages 30-31.

Appendix 8 – Key elements of a High Performing Planning System – Resourcing a High Quality Planning System, Grant, 2010 – Page 32.



Heads of Planning Scotland

HEADS OF PLANNING SCOTLAND (HOPS) INPUT TO THE WORKSTREAM ON PLANNING FEES AND PLANNING PERFORMANCE

1.0 Introduction

1.1 In the recent Independent Review Report (IRR) on the planning system, “**Empowering planning to deliver great places**”, May, 2016, 3 specific recommendations were made relating to **planning fees** and **planning performance**, which are inter-linked, as follows,

Recommendation 37

Planning Fees on major Applications should be increased substantially so that the service moves towards full cost recovery.

“A revised cap should be considered to better reflect the level of resource they demand. An increase in fees for developments requiring and EIA would also be helpful. Whilst we accept that ring fencing fees is not an optimal solution local authorities must accept that all increases in fees must be directly linked with improved performance and that this will require investment in the resourcing of planning authorities. We also recommend a new means of measuring service quality which builds on performance frameworks and a mechanism for penalties such as a refund in the planning fee to be incurred where this is not achieved”.

Recommendation 38

Scope for further discretionary charging, for example for pre-application processes, should be considered further.

“Innovative mechanisms for penalising negative behaviour and incentivise productive relationships, whilst also reflecting varying workloads should also be explored. Examples include higher fees for retrospective applications and combined consents, higher enforcement penalties and discounted fees for sites which are already allocated in the development plan. Charging by key agencies is also supported but must also be directly linked to improved service provision”.

Recommendation 39

Alternative mechanisms to support improvements should be found and the threat of the penalty clause removed.

“Given that the link between fees and performance continues to be critical, we recognise that positive intervention is required in cases of continuing poor performance. We therefore propose more solutions based mechanisms are explored by the High Level Group on performance.

1.2 Alternative mechanisms to support improvements should be found and the threat of the penalty removed. Building on the work by HOPS for peer review, options could include a requirement to take forward independently defined solutions, or reinstatement of auditing by the Scottish Government or another party. Alternatively, DPEA Reporters, high performing authorities or an appointed expert

could be tasked with redesigning processes, where there are performance issues arising. To further deter poor performance, any such measures should be paid for by the planning authority concerned”.

1.3 Since the publication of the Independent Review Report (IRR), the Scottish Government has recently produced updates on 2 matters relating to building warrant fees and planning fees which are directly relevant to this Input Paper, as well as the Consultation Paper on “Places, People and Planning”. which sets out further details of the Government’s likely approaches to increased planning fees.

Building Warrant Fees

1.4 In November, 2016 the Scottish Government published its Consultation Paper, “**Consultation on Building Warrant Fees**” to increase the fees for building warrants. The consultation period was shortened from the normal 12 weeks to 8 weeks and the aim is “**to make the building standards system achieve full cost recovery and place it on a sustainable footing for the future.**”

1.5 The Government states that it is committed to ensuring that building standards is adequately funded to deliver a system that is “**accessible, affordable and which provides a high quality service to those who use it.**” The Consultation Paper goes on to say that the “true” users of the system should cover the cost of the public funds of providing those services. Interestingly, the fees are also aimed to cover,

- The costs of the Local Authority verification services.
- The cost of the Scottish Government, specifically the Building Standards Division.

1.6 In addition, the Scottish Government expects to see the additional building warrant fee income reinvested in improving local authority verification services.

1.7 This message resonates strongly with the views of HOPS in relation to planning fees, except for the aspect referring to covering central government planning functions costs which has not been a previous discussion point in relation to increased planning fees, but also now appears in the Planning Consultation Paper, “People, Places and Plans”.

Planning Fees

1.8 In its November, 2016 Development Management Newsletter, the Scottish Government confirmed it was to embark on a further consultation on an immediate increase in the cap for major applications. (Phase 1 Review). It confirmed that an overall review of planning fees will be carried out once the planning review has progressed and the Scottish Government can consider all the wider changes which may impact on resources. (Phase 2 Review). The Scottish Government has also said it will be considering wider changes to the fee structure, including scope for further discretionary charging taking account of changes to the planning system flowing from the review.

1.9 Whilst HOPS is concerned about any further delay in introducing enhanced fees, this is an important area for further consideration as the 2006 Act introduced a range of measures to improve the handling of planning applications and these altered the range of activities required to determine planning applications and also the cost of determination incurred by planning authorities. No additional funding was made available at that time. The additional activities included the introduction of a new hierarchy of applications, neighbour notification being carried out by councils rather than applicants, and the setting up of local review bodies administered by local councils.

1.10 The Scottish Government issued its Consultation Paper, “**Raising Planning Fees**” in December, 2016 confirming this 2-phase approach to the review of planning fees. In recognising the importance of planning in supporting economic growth, in the delivery of quality homes and in community empowerment the Government has committed to consulting on enhanced fees, following the Independent Review of Planning recommendation that **fees for major applications should be increased substantially so that the service moves towards full cost recovery. (Recommendation 37).**

1.11 The Consultation Paper seeks views on a new fee maximum of £125,000 for major applications for most categories of development (£62,500 for applications for planning permission in principle). It also includes details of a reduced charge per unit or per 0.1 hectare for developments over a certain size to ensure that applicants in Scotland do not pay more than they would in other administrations for any size of proposed development. **HOPS submitted a separate formal response to the Fees Consultation on 23rd February, 2017, supporting the proposals but on the basis that they are essentially a short term, interim measure pending a more radical, comprehensive and sustainable overhaul of all aspects of planning fees to fund full cost recovery.**

1.12 Planning fees are currently capped at £18,270, £20,055 and £30,240 depending on the category of development. The aim of the amendment set out in the Consultation Paper is to raise the current planning fees maxima for most categories of development to a revised cap of £125,000 to better reflect the level of resources they demand. The proposed changes retain the current structure and do not contain any across the board increase.

1.13 In responding to the Fee Consultation Paper, the Scottish Property Federation welcomed the news that the proposed new fees for major planning applications are to remain competitive with like for like charges in England. The SPF wants to see greater certainty that additional resources released by the higher planning fees will be used for the purposes of improving the planning service in each local authority.” **These significantly increased planning fees must lead to a significant improvement in the speed and manner that major applications are dealt with. The additional resources must be utilised to provide appropriate resources to deliver these critical improvements in the planning service.”**

“Places, People and Planning”, Consultation Paper, January, 2017.

1.14 In the recently published Scottish Government Consultation Paper (SGCP) on Planning Reforms the Government has stated that, **“the planning service must have the resources it needs to deliver the world class service our communities deserve and our economy needs.”**

1.15 The current SGCP, which HOPS will be responding to in detail in a separate submission, sets out more details on the likely approach to planning fees in the Phase 2 review. The Government considers that the existing arrangements for planning fees is not sustainable to resourcing a planning system that needs to be focussed on quality and efficiency. The Government also confirms that it has been cautious in increasing planning fees, conscious of the need to align resourcing with performance improvement.

1.16 The stated aim of the Government is to **“fully recover costs of a high performing development management process, and those parts of public services that directly support this”**

1.17 Extending the intended coverage of planning fees in such an expansive manner will require a wider body of evidence and actual costs to be considered and carefully assessed. It will be important

within that context for the ultimate planning fee levels not to be unduly onerous and out of kilter with the other UK administrations. HOPS believes that this will be a critical part of the next steps towards increasing planning fees and will require to be fully demonstrated, particularly to the development sector.

1.18 HOPS position remains unchanged and the primary aim for any sustainable review of planning fees still must be full cost recovery for the Planning Authority in the first instance.

2.0 HOPS VIEWS ON RECOMMENDATION 37 - INCREASE MAJOR APPLICATION FEES

2.1 Since planning fees were introduced in 1980, not with the universal approval of the LPAs at that time, they have been the subject of much research and discussion. The strong links between fees and performance are all a feature of the research streams referred to below and summarised in the Appendices.

- Costs in the Planning Service (Paula Gilder,1999) - Appendix 1.
- Resources for Planning ((Arup, Allmendiner, Peart and Anderson Strathearn WS, 2005 – Appendix 2.
- Review of Fees for Planning Authorities (Arup,2009)-Appendix 3.
- Resourcing a High Quality Planning System- a Consultation Paper (Scottish Government,2010 and Research Paper, Aileen Grant, Dundas and Wilson,2011)).
- Investing in Delivery-How can we respond to the pressures on Local Authority Planning (Arup,2015) -Appendix 4.
- Progressing Performance- Investing in Scotland’s Planning Service, Background Paper by Thomas Fleming, RTPi Scotland,2015).

2.2 Some headline figures were used in the IRR summarised from the earlier RTPi Paper are highlighted below. There is a time lag between the relevant dates quoted and currently, and it is anticipated that an updating of the key statistics will be required for the Phase 2 review of planning fees.

Planning Fees and Resources

- Fees cover 26.5% of the cost of full planning service,
- Fees cover 63% of decision making.
- 20% reduction in planning staff since 2010.
- £40 million drop in gross expenditure between 2010 and 2015.
- 0.63% of local authority budget allocated to planning.
- £1.9 million average cost of planning authority service to tax payer.
- Fees in Scotland have increased 16 times since 1981 (20% in 2013 and 5% in 2014).
- Planning fees have increased 16 times since 1981.
- In 2012/13 LPA staff budgets costs averaged between, £143K and £5.6M.
- 40% of planning staff in planning departments are employed in development management.

2.3 Recently more acute concerns about planning fees have arisen due to the increasingly complex operation of planning services, the pressure on Council and planning budgets, and the fact that planning income is not “ring fenced” to the planning authority but is considered as general revenue to the whole Council. LPAs have also developed discretionary fees at a local level for the provision of different types of services to achieve better value for money and to assist in the balancing of budget challenges.

2.4 The overall resourcing of the planning service is the responsibility of local authorities. The planning service is financed through the local authority’s budget and fees from planning applications. Scottish Ministers expect a planning system that is reliable, proportionate and provides a service that is focused on delivery which is able to develop, share and adopt good practice for continuous improvement.

2.5 When the Planning Performance Framework (PPF) was introduced by HOPS five years ago, it was partly to be able to evidence the performance improvements of LPAs and the range of outcomes achieved to provide the Minister with confidence and a results based assessment that enabled a case to be made for an uplift in planning fees to better resource the planning function.

2.6 The increase in the level of planning fees and the need to demonstrate performance improvements are inextricably linked and have also been the subject of discussion at the High Level Group on Planning Performance, comprising representatives of Scottish Government (SG), Royal Town Planning Institute Scotland (RTPIS), Heads of Planning Scotland (HOPS), and the Convention of Scottish Local Authorities (COSLA).

2.7 HOPS firmly believes that there is an urgent need to radically restructure the planning fees in Scotland to achieve full cost recovery and to legitimise the use of discretionary fees for bespoke services. It is equally important that the income generated from planning fees is retained by the planning service and is used to reinvest in the resources, services and planned improvements. This approach chimes with the approach the Scottish Government has set out for the justification for an increase in the building warrant fees and HOPS fully supports this approach.

2.8 The recent Housing White Paper in England, “Fixing our broken housing market”, February, 2017, confirms an increase in nationally set planning fees. A 20% increase from July 2017 is proposed if LPAs commit to investing the additional fee income in their planning departments. More interestingly, the Paper sets out a further 20% increase, “**for the authorities who are delivering the houses their communities need**”, although this measure is to be the subject of further consultation.

2.9 Planning fees is one area of planning which has attracted much interest over the years and consequently there have been many research reports commissioned in the past as highlighted above. The most recent research paper from the Scottish Government on planning fees and planning performance was “**Resourcing a High Quality Planning System**”, 2010 and its main findings were,

- The most popular suggestions for improving the quality of planning applications related to more effective operation of the pre-application and validation processes. Both can result in additional information being provided and improved quality. However, developers and agents continued to question the need for so many complex documents in planning submissions.
- Most planning authorities are seeking to improve their performance through new and different ways of working, most visibly through the annual Planning Performance Frameworks. Measuring performance can be difficult primarily because it is not easy to

identify indicators relating to the quality of the planning service provided. Nevertheless, speed and/or certainty about the timing of decisions remain important performance measures.

- While most parties support making a change to the fee structure, upgrading and improving the current system emerged quite clearly as the favourite option. The option for charging based on calculation of time spent was the least favourite.
- There was support for raising the fee (a maximum of £100K) - planning authorities would like to receive increased fees but the development industry was cautious as it continued to suffer from the economic downturn. However, many developers could support some increase in fees if an improved service is delivered.
- There was a degree of support for introducing new charges for pre-application discussions and EIA developments. But seeking fees for discharge of conditions and planning agreements did not elicit widespread support, nor did introducing staged payments or discounts or rebates.
- Introducing different fee rates for regional or tailored planning services was not supported. Most respondents wish the focus clearly to be on improving the planning service as a whole.
- Raising the fees for Hazardous Substances Consent was generally supported as is the principle of altering the way in which fees are charged for windfarms, aquaculture and agriculture developments.

2.10 The results of this consultation highlighted key differences in perception between planning authorities and the other main parties in the development management process. Some developers had concerns about the attitude of planning authorities, the need for improved communication and better levels of service.

2.11 In general terms the proposals were welcomed by the LPAs but the Scottish Government did not implement the proposals set out at that time partly due to the overall financial situation facing local government and the negative comments expressed by some parts of the development sector about speed of determination and levels of service.

2.12 In the report from Audit Scotland on “**Modernising the Planning System**“, September, 2011 the report concluded that “**the funding model for the processing of planning applications was becoming unsustainable**”. The gap between income and expenditure was widening (and has widened further) leading to greater dependence on already constrained council budgets.

2.13 One of the key recommendations in this report was the need to collect monitor and report data on the costs of development planning and development management to help inform the setting of planning fees. Audit Scotland also felt that other costs such as legal, committee and specialist support services provided by other parts of the system should be included. To supplement and enhance the earlier research work and the suggestions of Audit Scotland HOPS and the Improvement Service, with the assistance of CIPFA/Planning Advisory Service carried out further more detailed work which culminated in detailed information being collated in each LPA over a 2 year period. The raw data for each LPA was forwarded to the Scottish Government as input to the overall database on planning fees and resources. The conclusions from that exercise which involved data collection for planning costs in all Scottish Planning Authorities are set out in Appendix 3.

2.14 **The RTPI Scotland Paper, “Progressing Performance”, 2015** summarised key performance figures and set out the various planning costs and incomes in to a more holistic context of shared services, national spatial data and performance improvement processes. None of these processes and enhancements can be seen in splendid isolation. They require to be included in a comprehensive package of measures to meet the aspirations of providing an excellent planning service.

2.15 The Paper is a useful summary of the previous studies and research in to costs, fees and resources and draws on the outputs from the Planning Performance Frameworks across Scotland. It concluded that, **“A commitment to continuous improvement demands a commitment to proper resourcing” and “Adequate resourcing is critical to a well performing planning service”**

HOPS Benchmarking Visits

2.16 HOPS recently carried out some benchmarking visits to planning authorities in England and Wales and observed that there were substantial differences between the planning fees levied and the discretionary charges made for planning activities and services in England, compared with Scotland. The sheer scale in the difference in planning fee levels was very evident. What was also evident was the ability of authorities to invest more time and more resources on proactively identifying and delivering projects with partners. The fee income which is set provides them with the opportunity to fund posts in these areas and to invest in performance improvements and other initiatives.

2.17 One example was Birmingham City Council where they had reduced staff resources by 35% but they had also improved performance levels. Birmingham deals with 5,000 applications each year with an annual fee income of £5,000,000. Discretionary charges are also used and they charge for pre-application discussion and Planning Agreements for major applications.

2.18 HOPS believes that the processing involved for major planning applications does justify a significant uplift in planning fees and it is pleased to see the recent Scottish Government proposal to uplift the fees for major planning applications by almost fourfold. This is fully justified because,

- Major applications are more complicated to assess and process and the consultations involved can be complex.
- The work in engaging with key agencies and other consultees can be particularly time consuming.
- Often the application requires detailed assessments of related material e.g. Environmental Assessments, Retail Capacity, Transportation Studies, which in themselves require to be separately assessed and tested. This can often involve addition expense by the planning authority and takes up a lot of staff time.
- Major applications such as windfarms can be controversial and generate significant processing work for the LPA due to the volume of objections and related challenges/ correspondence.

2.19 Additional planning fees and resources in themselves will not automatically improve planning performance levels. The first objective of HOPS for additional planning fees is to achieve full cost recovery. The additional fee income is need simply to recover the cost of what LPAs currently do and the available evidence substantiates this. The scope for “investing” any additional income beyond full cost recovery may well be limited at this stage. Any such “surplus” income may enable planning authorities to reinvest and resource activity areas where they may currently be underperforming in and allow innovation and best practice to be implemented. This would need to be identified on an individual basis and subject to local circumstances but could include, for example,

- Dedicated planner/lawyer to lead on fast tracking Section 75 Agreements.

- Data specialists to work with others at local and national level to better co-ordinate spatial data.
- Additional resources to invest in joint funding partnerships to deliver projects.
- Lead planner/s to work with Homes for Scotland and housing developers to project manage housing developments across Development Plan and Development Management areas of activity.
- Other critical areas identified by the development industry, such as improving overall decision times and determining legacy applications,

2.20 This list is not exhaustive and is only used to provide possible examples of what additional resources could be invested in once full cost recovery has been achieved. **Every planning authority will have different demands on it and accordingly different local requirements and solutions.**

3.0 HOPS VIEWS ON RECOMMENDATION 38 - DISCRETIONARY CHARGES

3.1 The use of discretionary charges has increased, particularly over the last few years as local planning authorities have faced financial challenges and restrictions, budget reductions and staff reductions and required to become more innovative in identifying new income streams to supplement budgets.

3.2 Whilst legal views on the legitimacy of charging for discretionary services have differed the practice has been adopted by some planning authorities in Scotland. Agents and developers whilst at first hostile to such measures do appreciate the need for additional charges if the level of service is guaranteed and the overall effect is to assist in the assessment of a planning application and its speedy determination.

3.3 Previous research confirmed that whilst there was a degree of support for charging for pre-application discussions (on the basis that this could help to set up a consistent Scottish-wide service with high standards), caution was urged because such discussions are a key tool for improving the quality of planning submissions. Putting them on a more formal basis would also have the benefit of addressing community concerns about lack of transparency. There is also the point that a charged service is taken more seriously by both the applicant and the planning authority and it should raise the level of service and quality of advice and the attention paid to it by the applicant.

3.4 There was no clear consensus view about charging higher fees for EIA developments and no developer supported this. As a comparator example, however, in Northern Ireland there is an additional fee of £10,635 added to an application which involves an EIA.

3.5 Similarly, there was no majority support for charging for the discharge of planning conditions or for planning agreements - the former on the basis that it may be difficult to administer and may discourage applicants from getting full discharge of conditions, the latter on the basis that legal fees are already sought on a frequent basis. Some respondents considered that if the maximum fee were to be raised, this might obviate the need for fees to be charged at additional service delivery points.

3.6 The HOPS benchmarking exercise in England confirmed what additional levels of income can be generated and there did not appear to be any reluctance on the part of developers to pay for additional services, provided the standard of service provided was acceptable and to agreed standards.

3.7 HOPS agrees that retrospective applications should be charged at a higher fee level, and we have suggested double the normal planning fee to act as a disincentive to applicants. This point needs to be discussed further as it could be seen to run counter to the cost recovery approach. Retrospective applications can sometimes be easier to assess and could incur less resources. The principle here is whether planning fees should act as a "fine". The current SG Consultation Paper suggests proposals should include higher fees for retrospective applications and HOPS supports this stance.

3.8 The question of discounted fees for sites which are already allocated in the development plan needs to await the detailed research findings and recommendations set out in the Rydens report commissioned by the Scottish Government. If a discounted fee of some sort was to be applied at the planning application stage it begs the question of some form of planning fee being required during the assessment processes for the development plan.

3.9 The current SG Consultation Paper sets out a range of likely areas for planning fees which are to be more flexible with the aim of ensuring that the costs to applicants are more closely aligned with the planning services provided. These include.

- Charging for appeals and review decisions
- Discretionary charges, including for pre-application processes.
- Discretionary charging for establishing Simplified Planning Zones
- Removing developers right to submit a revised or repeat application at no cost
- Removing provisions for recovering advertising costs and including these within a revised planning fee
- A higher planning fee for enhanced service standards or for fast-tracked applications

3.10 The stated aim of the Government is to **“fully recover the costs of a high performing development management process, and those other parts of public services that directly support it”**.

4.0 HOPS VIEWS ON RECOMMENDATION 39- IMPROVED PERFORMANCE AND REMOVAL OF THE PENALTY CLAUSE

4.1 Scottish Ministers agree with the views expressed in the review that any increase in fees must be linked to sustained improvements in performance. The fee increase proposed in this paper will provide increased resources to planning authorities to help support performance improvement. Following consultation on the review of planning Scottish Ministers will reflect on the need for further changes to resourcing the planning system and will consider, together with the High Level Group on Planning Performance how the link between fees and performance can be maintained and strengthened.

4.2 HOPS introduced the Planning Performance Framework five years ago, following discussions with the then Minister, Derek Mackay and Scottish Government officials to move away from the position of speed only indicators and to evidence the overall achievements and outcomes from local planning authorities. It was also to provide the Scottish Government with confidence and an evidence base that planning authorities were continuously improving overall performance levels.

4.3 The PPF has been an undoubted success as a unified performance monitoring process and a means of promoting planning achievements and other agencies and other governments have looked at the concept with a view to introducing something similar. The PPF has developed over these years with

user feedback and suggestions and the Scottish Government added in a RAG system of assessment and High Level Markers.

4.4 The recent RTPI study **“Investing in Delivery”**, Arup, 2015 (Appendix 4) expands on the RAG assessment and classifies LPAS in accordance with their overall performance. LPAs are classified in 3 different categories as either, **“striving, surviving or struggling”**. HOPS considers that this is an approach which has some merit but it requires further discussion and assessment as a part of the workstream for enhancing the current PPF approach. It can be combined with the study carried out by Grant, **“The key elements of a high performing system”**, summarised in Appendix 8.

4.5 This enhancement work should also take account of the summary conclusions from the Resourcing a High Quality Planning System report and research in relation to the responses received which described the key attributes for a **“high performing planning system”**. These are summarised in Appendix 5.

4.6 At the outset, HOPS confirmed that by the time of PPF5 (the current round) the PPFs should be fully developed and mature, and it would be an appropriate time to refresh and renew the process. In our visioning document submitted to the Scottish Government in advance of the Consultation Paper on the review of planning HOPS stated that, **“The Planning Performance Framework needs to be developed and refined further and used flexibly at local level. The PPF should be a document with a wider audience to demonstrate the achievements and outcomes in planning. It should not simply be a document for reporting performance to the Scottish Government”**.

4.7 Continuing to improve performance and quality is critical and HOPS sees various ways in which the PPF can be further enhanced and we can introduce more rigour and scrutiny, self-assessment, peer review and the need for specialist, independent support where required to assist an authority with its Improvement Plan and Actions.

4.8 Based on the recent HOPS Peer Reviews and the HOPS Benchmarking Groups and suggestions made (Appendices 6 and 7) and further discussions at HOPS meetings HOPS would like to see the Planning Performance Framework and its approach to performance and quality outcomes strengthened and updated following its successful adoption and adaptation over the first 5 years since its introduction.

4.9 The Planning Quality Framework (PQF) approach in England run by the Planning Advisory Service is another source for critical benchmarking with and assessment for any additional matters to be included. The PQF is a collection of tools and techniques developed by PAS to help LPAs understand how their Development Management service is performing. The Framework focusses councils on the things that matter to customers and it uses real time data about planning applications and survey information provided by people using the planning process. Although not directly comparable with the PPF, due primarily to its focus purely on Development Management, it is nevertheless a useful source for comparison purposes, particularly in relation to the use of customer surveys and feedback.

4.10 The SLAED indicators developed by Scottish local authorities to showcase economic development activity rates against national targets is another useful cross-reference point for the re-assessment and refreshing of the PPF.

4.11 The continued focus on performance and quality improvements is essential and the current Consultation Paper clarifies this repositioning agenda and the need to change across the planning system to better enable local planning authorities to manage performance more effectively.

4.12 The Government acknowledges the significant progress achieved since the introduction of the PPF 5 years ago, and suggests that HOPS leads on the consideration of the following improvements,

- A stronger focus on the experience of customers of the planning service customers within service improvement plans.
- “360 degree” feedback from service users for all local planning authorities in Scotland
- Continued support from the Improvement Service
- Improved Peer Review
- Identifying a national performance co-ordinator who champions improvement across all planning authorities and leads the sharing of experience and expertise.

The Consultation Paper is also clear that planning performance should be measured by its outcomes and the Government will explore the scope for measuring performance based on quality of places and further research is to be commissioned to take this forward.

4.13 HOPS has considered the next series of potential enhancements to be introduced in to the new PPF approach based on the peer review groups and benchmarking groups feedback and, subject to further discussion and approval at the High Level meeting with the Scottish Government, RTPi and COSLA these could include,

- Agree to the use of benchmarking partnerships and Peer Review Groups to critically assess the use and format of the PPF approach. (Previously agreed at the High Level meeting subsequently actioned by HOPS).
- More robust and independent scrutiny of the individual PPFs will be introduced subject to identified funding streams. This would enable HOPS, with the RTPi and IS, for example, to consider the appointment of an experienced and independent practitioner to take the lead in the annual round of PPF preparation, consultation and guidance processes, as suggested in the Consultation Paper.
- The preparation of an annual timetable for the PPF, arranging local workshops for feedback and suggestions, setting out the revised guidelines each year and crucially carrying out an independent audit of each PPF against a set of agreed criteria could also be part of such a remit. HOPS does not agree with any external audit/inspection regime and feels that the approach outlined here is sounder and more robust, and more importantly it will carry the respect and confidence of the member LPAs. **Essentially HOPS requires to retain professional and managerial ownership of the PPF process, whilst at the same time demonstrating a clear commitment to quality, independence, scrutiny, improvement and review.**
- The current scrutiny of the PPFs by the SG should be formalised and reviewed jointly with HOPS and pre-consultation with each LPA should take place before the final SG assessment is published, if the current levels of SG involvement are to be maintained. This assessment process should involve the HOPS lead PPF officer in a joint scrutiny role with SG to provide continuity and trust and to ensure that the process remains in the control of HOPS.
- The production of a model PPF to demonstrate the breadth and content required in a PPF to conform to the HOPS expectations and published guidelines could also be considered as requested by some LPAs.
- Revised PPF guidance with an illustrated annual timetable as mentioned above and a list of the PPF essential requirements which make an “excellent” PPF.

The Penalty Clause

4.14 The Government has confirmed in the Consultation Paper that it has no intention of implementing the penalty clause in the Regulatory Reform Act but equally they have no plans to remove it. Whilst also supporting a more positive, supportive approach the Government feels it is essential to have this option in place as an assurance that action can be taken where it is demonstrated that performance is consistently poor and corrective improvement actions are not being taken.

4.15 Regarding the Penalty Clause issue, HOPS has consistently been of the view that an excellent planning system can only be delivered through continuous improvement which, amongst other things, involves support and assistance for poorer performing planning authorities to learn from those that are performing well. Whilst it has been said by Ministers and confirmed again in the Consultation Paper that the penalty clause will not actually be used it must remain as a last measure option in the face of persistent poor performance HOPS believes that its mere existence does tend to be counterproductive.

4.16 Both HOPS and RTPi Scotland consider that there are 5 main reasons not to support such a measure.

- Firstly, it would be illogical to withdraw funding or reduce funding from planning authorities that demonstrate a need to improve. The Scottish Government should seek to **incentivise** rather than **penalise** and look to reward good performance in some manner.
- Secondly, it is unclear how the Scottish Government would actually evidence or assess whether a planning authority has ‘passed’ or ‘failed’ such a performance test “*when Ministers are satisfied that the functions of the authority are not being, or have not been, performed satisfactorily*”. Questions also remain about timescales, improvement trends, and what measures would be used. It is important to resist the use of performance “league tables” but some device would have to be designed and jointly agreed.

These concerns strengthen the case being put by HOPS for a refined and refreshed Planning Performance Framework with more review and scrutiny built in, and the use of an independent person/panel to oversee performance outputs and improvement plans.

- Thirdly, there is a danger that measuring performance by speed measures alone will not recognise the complexity of processing a planning application and situation and the number of stakeholders involved as mentioned above. HOPS has commented previously on “whose performance is it anyway?” which is a direct reference to the wider involvement of and impact of applicants, agents, Statutory Consultees, community councils, councillors, key agencies and other council services.
- Fourthly we have a concern that the performance indicators chosen may focus on the development management aspects of the planning system, given that they are often seen as the ‘front face’ of the planning service and the speed of handling becomes the critical or only performance measure. The PPF presents a more balanced picture of performance measures across the different planning activities and includes a focus on quality, feedback and outcomes which must be the basis for any overall assessment of planning performance.
- And finally, varying the level of planning fees between authorities could potentially cause confusion and misunderstanding. Different LPAs with different fee structures would be extremely confusing to applicants across Scotland.

4.14 RTPi Scotland previously set out criteria which would be required if such a position on a penalty clause was to be implemented and HOPS has adopted these with some adjustments, as follows,

- the performance criteria must be clear, measurable, evidence-based and outcome focused and examined within the context of the Planning Performance Framework process.
- the assessment of a planning authority's performance is carried out in an independent and professional manner, by a capable organisation, such as HOPS/RTPI working with individuals that have an in-depth knowledge of planning and the planning system or an independent panel of experts with access to these resources.
- the process should involve an assessment that works towards constructive and continuous improvement in a sustainable manner.
- there is a clear, staged improvement process undertaken which includes opportunities for the planning authority and Scottish Government to discuss issues raised from the assessment audit and to jointly agree improvements to be made.
- the assessments are taken forward within a national continuous improvement programme, which provides the opportunity for planning authorities to mentor one another, to share good practice and innovation, to shadow one another and to share experiences.
- performance improvement strategies bring together all sectors to ensure that they are all aware of one another's needs and perspectives.

5.0 CONCLUSIONS

5.1 HOPS believes that the planning fees require to be radically overhauled to achieve full cost recovery of the planning services provided. The evidential basis for this is well recorded over many years and this data needs to be updated. HOPS supports the selective re survey of sample authorities to update its previous work on planning costs, which was carried out with the support of the Planning Advisory Service, Improvement Service and CIPFA, subject to appropriate resourcing being made available and no undue delay in terms of the overall review and implementation of a new fee regime for Scotland.

5.2 Planning services require to move quickly to a position of sustainable self-funding if the vision and aspirations for the planning system are to fully and effectively realised and implemented.

5.3 The current SG consultation proposal to increase major planning application fees in a substantive manner is supported by HOPS, linked in to performance and service improvements and enhancements. A separate HOPS response has been submitted to Scottish Government based on the key elements of this Paper.

5.4 The latest SG Consultation Paper indicates that planning fees may require to go beyond full cost recovery for LPAs and be extended in to other public agencies and Central Government itself, as set out in the Building Warrant Fee Consultation Paper. **HOPS does not support the “top slicing” of planning fees to central government or other agencies as it may well lead to the fees being set “artificially high” to cover a series of other costs.** The complexities of proportionality, evidence, justification, collection and rights of challenge, for example would add burdens to the process and would over complicate a reasonably straightforward process of paying for planning applications assessed and processed by the Local Planning Authority.

5.5 It is also important to ensure that the Scottish fee regime is not further disadvantaged from the English system of planning fees and it expects a full comparison of costs and fees to be included as an integral part of the Planning Fees Phase 2 review so that there is fairness and a level playing field. For example, the recent Housing White Paper in England mentions a further 20% increase in fees from July 2017, and a possible further 20% increase for authorities who are, “delivering the houses their communities need”. **Parity with England in terms of overall resourcing should be the minimum**

ambition of the Scottish Government, and HOPS will work with Scottish Government and other key parties to explore suitable options for doing so.

5.6 As it set out in its earlier Vision Statement, “Repositioning, Resourcing and Streamlining the Planning System”. HOPS also wants to see changes implemented in relation to Section 42 applications and Section 36/37 applications to ensure that the fee income is proportionate and it is paid to the local planning authority, and expects to see these matters included in the Phase 2 Review on Planning Fees.

5.7 Of critical and fundamental importance is the need for the Scottish Government and Councils to acknowledge that the additional income generated by an increase in planning fees must be retained by the LPA as a discrete operating budget. The proposed improvements towards excellent planning services cannot be achieved without the opportunity for LPAs to reinvest in resources and enhanced levels of service provision.

5.8 Discretionary fees form a significant part of the income generated by English LPAs and increasingly LPAs in Scotland have developed funding streams based on discretionary services. HOPS considers that discretionary fees should be legitimised by appropriate legislative and regulatory amendments and included in a new, enhanced fee structure to avoid any ambiguity or uncertainty. LPAs must be empowered to charge such additional fees as they see fit. i.e. maximum flexibility to reflect different local circumstances and economic conditions.

5.9 Increased fees and improved performance are inextricably linked and require to be tackled in tandem. The previous research work confirms this and the meetings of the High Level Group have focussed on this dual approach. The Planning Performance Framework approach is strongly favoured and supported by HOPS as it has proved to be a successful model for evidencing performance and quality improvements across all the Scottish LPAs using a consistent method of assessment. HOPS acknowledge however that it is now time to take the PPF approach to the next level of development and implementation and to benefit from the experience of other performance frameworks (e.g. Scottish Local Authority Economic Development Authorities (SLAED) and the Planning Advisory Service (PAS) work in England) and to respond to user comments and feedback from the LPAs and Scottish Government. It is equally crucial that HOPS maintains the ownership of the PPF process and provides the leadership and support required going forward.

5.10 There is a recognised need to make the PPF approach more rigorous, robust and challenging and it also must be seen to deliver improvements in performance and quality across all LPAs. HOPS suggestions for an independently appointed person(s) and new approach to individual and critical assessment of each PPF outlined above will be developed in more detail to a finalised and funded proposal for further consideration and approval but the recommendation from the Independent Review on this need for scrutiny and challenge is supported, as is the latest thinking from the Scottish Government in the Consultation Paper and their desire to see increased resources being accompanied by, **“ a stronger assurance that performance will improve to a high standard in every authority”**

6.0 HOPS RECOMMENDATIONS TO SCOTTISH GOVERNMENT

- **Planning Fees.**

1. HOPS believes that the planning fees require to be radically and comprehensively overhauled to achieve a full cost recovery of the planning services provided. The research and evidential basis for this is well recorded and needs to be updated and used as the basis for the proposed increases. The HOPS preference was to have this increase implemented immediately to help shape forthcoming budget processes, as the previous research and consultation processes have clearly evidenced the need for substantially increased planning fees to achieve full cost recovery. HOPS however accepts the logic of the “2 Phase” approach now outlined by the Scottish Government but recognises that Phase 1 on major application fees is an interim, and stop gap measure and will not benefit every LPA and some LPAs will receive little or no increase in planning fee income. **HOPS recommends to the Scottish Government that the promised radical increase in planning fees is not unduly delayed and Phase 2 is implemented as expeditiously as possible and covers all of the aspects relating to planning fees set out in this Paper.**

2. The planning fee income generated must be paid to and retained by the planning service within each local authority and not be made available to the general corporate funding budgets. The fee increases are primarily to achieve full cost recovery with any additional surplus, if there are any, reinvested in the service to reflect local priorities and circumstances. **HOPS recommends that the Scottish Government set out a clear statement with clear advice and that the necessary legislative and/or regulatory reworking is implemented to enable LPAs to legally implement discretionary charges for appropriate planning services.**

3. The current areas where no fees are incurred now for Listed Building applications and applications in a Conservation area require to be revisited and planning fees charged in a similar manner to planning applications. HOPS does not agree with the view that these are in any way “special cases” and the planning fee money is better channelled in to the fabric of the buildings. The fees would be a very minor part of any investment in the building and the works are the subject to a fee for a building warrant where appropriate. **HOPS recommends that the Scottish Government include these categories of development in the subsequent list of planning fee charges.**

4. The public are constantly complaining about the submission of retrospective planning applications and the disregard for the planning system. **HOPS recommends that retrospective applications should have a double planning fee imposed to demonstrate to the wider public that ignoring the planning rules is not taken lightly and is not rewarded and recommends to the Scottish Government that this measure is implemented in the Phase 2 paper on the revised planning fees.**

5. The fees for Section 42 applications and applications under Sections 36 and 37 of the Electricity Acts should be reviewed upwards, and the planning fee for S36/37 application should be paid to the local planning authority and not to central government.

- **Discretionary Planning Fees.**

5. The whole area of discretionary fees should be legitimised in the overall review of planning fees to achieve parity with England and Wales. The Consultation Paper outlines a series of possible areas for discretionary charges and HOPS supports this approach. **HOPS recommends that discretionary**

planning fee payments should be legitimised in the overall Phase 2 review of planning fees and clear services should be identified for charging purposes. E.g. Pre-application discussions, to bring Scotland in to line with the provisions in England.

- **Improved performance and the removal of the Penalty Clause.**

6. HOPS does not consider the use of a Penalty Clause to be conducive to joint working and LPAs working in partnership with the Scottish Government. The rationale behind it is understood but successive Scottish Ministers have confirmed that it is there simply as a deterrent and will not be used, unless the set of circumstances require it. **This is an unacceptable situation for HOPS for the reasons stated earlier and HOPS recommends that the penalty clause is repealed and deleted from the legislation.**

7. The PPF is a successful tool utilised effectively by LPAs which will be further enhanced and strengthened by HOPS, in consultation with the Scottish Government, as set out earlier in this Paper. This will enable a new approach to improving performance which is compatible with the recently stated aims of the Scottish Government in its Consultation Paper.

8. Part of the increased income from a revised planning fee structure may be able to be reinvested in further planning performance improvements but only once full cost recovery has been reached. Part of the additional income raised from increased planning fees by LPAs could be used, for example, to fund an independent performance “champion” to lead on the PPF processes and timetable, and to scrutinise “lower” performing councils with a view to implementing improvements within a prescribed time as suggested in the Consultation Paper. Alternatively, this approach could be funded by central government as an annual contractual payment paid to HOPS.

9. HOPS recommends that the Scottish Government confirms its support in principle for such a sustainable and independent approach to resource the next stages of planning performance and improvements and to take forward further detailed consideration of these matters with HOPS and the High Level Group on Performance as a matter of priority.

APPENDIX 1

COSTS IN THE PLANNING SERVICE, SCOTTISH EXECUTIVE, CENTRAL RESEARCH UNIT, PAULA GILDER, 1999.

The 'Costs in the Planning Service' report was commissioned by the Scottish Executive in 1999 to investigate the costs involved in the delivery of the planning service by local authorities in Scotland. The aim was to establish broad information on the level of local authority costs in planning, an appreciation of the range of differences that apply, proposals for a common cost accounting framework and answers to specific questions relating to development control and the handling of planning applications.

A key objective of the study was to devise a process by which robust cost figures could be collected, monitored and reported to the Scottish Executive on a regular and efficient basis. At that time the report concluded that the collection of robust and comparable costs would require a common accounting framework, consistent treatment of overheads and a relevant time recording system. From 2001-2002 Local Financial Returns (LFRs) were introduced and LFR7s were intended to record planning costs. These tended to be corporate forms completed by finance officers, and often not seen by the planning service.

In the report findings, no clear relationship was identified between the total costs of development control and any of the quantifiable potential cost drivers except the number of applications processed. However, it was noted that the total budgeted cost divided by the number of applications was generally higher in rural areas. Analysis of costs by stage of processing established that between 50% and 70% of total development control costs related to the determination of fee earning planning applications.

For the eight case study authorities, fees as a proportion of development control costs ranged from 40% to 85%. This indicated that most authorities recovered between 50% and 70% of their development control costs through fees. However, as acknowledged in the study, this cannot be taken to mean that fees are covering determination costs at the overall level. These findings were based on rough estimates for just 6 of the case study authorities. The study also asserted that total development control costs are likely to be about a third higher than those reported in budgets.

Only three of the eight case study authorities were able even to estimate total development control costs across all seven of the detailed framework headings. Accordingly, the study found very little evidence to enable comparisons to be made of fee levels with the costs involved in determining different categories of planning application. However, common perceptions among officers were that fees did not cover costs in several areas including: houses in the countryside, minerals applications, outline plans for large settlement expansions, complex regeneration schemes, and large retail and residential developments. On the other hand, it was felt that fees did cover determination costs in the case of householder and industrial development applications.

In relation to monitoring and enforcing minerals permissions, the study sought to identify the broad scale of costs associated with this activity. It was concluded that the available information did not allow the costs incurred from such activity to be assessed with any degree of reliability but that the area was sufficiently under resourced for expenditure at that time not to provide any guide as to what should be spent. Indeed, one authority in the study considered that the amount that should be spent on monitoring was almost three times the amount that was being spent.

The study also examined systems that authorities had in place for data collection and reporting, and the nature of ongoing information systems local authorities would need in order for monitoring to be as automatic and straightforward as possible. It was found that many general ledgers could hold information in cost centres at the level of detail required by the suggested common accounting

framework. Accordingly, it was recommended that such cost centres should be set up where possible. However, it was recognised that this would not address the allocation of staff costs across detailed activity headings. Consequently, time recording mechanisms would therefore be required. Although the need for further progress in this area was identified, the study highlighted that authorities were increasingly using time recording for benchmarking purposes. This was reflected in the use of time recording systems of some description by 22 of the 29 authorities that attended the seminar.

The report recommended that authorities should be advised on how to relate their time coding system to the accounting framework, or if appropriate on how to establish a system. Following this, LFR7 forms should reflect the framework, preferably including all seven development control headings and a single planning policy heading. In addition, that authorities should receive feedback on the LFR7 and volume returns so that they may regularly review their costs and activity levels vis-à-vis other councils.

APPENDIX 2- RESOURCES FOR PLANNING, ARUP, ALLMENDINER, PEART AND ANDERSON STRATHEARN, 2005.

Arup were commissioned by the Scottish Executive to undertake research into the adequacy of the staff and financial resources available to local authority planning departments. The report presented evidence on the nature, scale and causes of resource problems and proposes solutions to identified problems.

Between 1996-97 and 2003-04 total net revenue expenditure on all services by Scottish local authorities increased by 40.3% but revenue expenditure on planning services reduced from £74.4 million to £70.0 million.

The planning service in Scotland has not been given the resource priority it has needed to operate effectively in recent years.

If local authorities were to achieve 100% cost recovery of fee-related development control activities this would have resulted in an increase of 34% in fee income in 2004-05 equivalent to £7,381,243.

In 2003 there were 1,673 full-time equivalent planning posts within Scottish local authorities including 84 fulltime equivalent vacancies.

There is an overall shortage of qualified planning staff across Scotland and there are concerns about the future supply of planning graduates, particularly in the West of Scotland where the University of Strathclyde had recently closed its planning. The 2005 research found that the cost of the planning service delivered by planning authorities in Scotland was £98.3m per annum

This research also identified that the cost of the development management service, including overheads chargeable for central services (legal, administration, office accommodation etc.) was approximately £29.4m. The total income from fees was £22.6m in 2008/099. In addition, the research concluded that the requirement for higher fees requires to be matched by performance improvements.

The 2005 research also examined the extension of the fee to cover other currently non-fee planning applications. This research identified concerns about introducing charges for development planning, Listed Building Consents and Conservation Area Consents. It also identified some scope, subject to further consideration, for introducing charges for pre-application discussions, tree related applications and notifications. The research also recognised the tensions and issues with ending the “free go” for resubmitting applications.

This report concluded that the treatment of overhead costs varied significantly and recorded costs were not robust enough to be used to assess whether the resources devoted to planning were adequate.

APPENDIX 3- REVIEW OF FEES FOR PLANNING APPLICATIONS, ARUP, 2009.

The 2009 research, which was commissioned to review and recommend the basis for setting planning application fees and assess the costs of reforms to the planning system, recognised there is variation between authorities, with cost recovery at around 83% of total costs. On this basis, it therefore recommended that a 20% increase was justifiable. The report also recommended that the new requirement for planning authorities to carry out neighbour notification would justify a 5% increase in fees to cover planning authority costs. It also recommended raising the maximum fee cap as the largest applications are furthest from full fee recovery. Ministers, however, decided not to implement such an increase because of the economic downturn.

The specific aims of this study were to:

- Review and recommend on the basis for setting planning application fees;
- Resolve the differences between the costs of the fee paying development management service suggested by financial returns to the Scottish Government (known as LFR7s) and other estimates; and
- Assess the additional costs of recent reforms (2006 Act) to the planning system and recommend on how these costs could be recovered.

The Scottish Government's evidence base for application processing costs and setting fees was at the time of the study based on financial returns from local authorities which include estimates of relevant costs as part of a wider local finance return to the Scottish Government. These are known as Local Finance Return 7 (LFR7).

The setting of fee levels by the Scottish Government has aimed for high or total levels of cost recovery through fees but in practice local authorities have suggested that this has only rarely been achieved and some past evidence has supported this view. Authorities suggest that this is partly because of accuracy of the specific data on cost recovery provided on LFR7 returns and also because fee increases have lagged the available cost information. The issue of accuracy arises because the challenges of providing cost information that can accurately reflect the complex and multi-department full costs incurred by authorities in processing applications. Authority accounting practices are not presently designed to allow these costs to be identified.

The issue of fee levels is particularly pertinent given the importance of providing sufficient resources to enable authorities to meet expectations of increased speed, quality and delivery of planning decisions and development. However, fee paying development management is one part of the local authority planning services, alongside development planning and other significant activities such as heritage and conservation work which is not covered by fees. It is very unlikely that fee increases alone can deliver additional resources to planning services as a whole.

Resolving differences between costs and existing returns

Variations in context and accounting practice mean that LFR7 returns are not completed on consistent basis by planning authorities. This is reflected in a wide variation in recorded costs. Even if LFR7 returns were completed on a consistent basis, the design of the form does not allow recording of costs that are incurred outside the planning department, e.g. in legal or highways, which could be offset legitimately against fees.

The case studies and the existence of additional costs helped to resolve any differences between LFR7 data and the higher costs found in the earlier Arup 2005 study.

The findings also suggest that the search for a perfect standardised system of measuring costs is elusive in the context of 32 authorities that had different accounting systems; different organisational structures, different levels of resources and different planning contexts. :

- The only means by which accurate costs could be obtained is probably through the treatment of planning applications as a separate trading activity with self-contained and ring fenced resources - similar to the system of building control. However, there is no appetite for such a system.
- Inevitably as applications and planning contexts are unique there will be cases where authorities make a surplus on costs and other cases where cost recovery is not achieved. The important issue is that authorities are making quality and timely decisions on planning applications.
- The role of LFR7 returns in providing a basis for fees is not understood by local authority finance officers.
- A bottom up approach similar to the case study approach adopted in this study provides a means of identifying additional costs incurred beyond the planning department. However, some additional effort is required to collect this information.
- Despite the lack of time recording systems, authorities can reasonably accurately estimate the proportion of development management costs associated with processing fee-paying applications and across other development management functions.
- Levels of resources, and thus costs do vary between authorities, but it is difficult to distinguish resource levels from differences in accounting practice. There may be justification for different levels of resources according to the local context, although most authority planning departments feel under-resourced.
- There is scope to increase fees based on existing LFR7 returns which suggests that across the system fees cover about 83% of recorded costs. The Scottish Government can feel confident that such increases are justified, given that further increases may also be justified based on bottom up costs like the case studies, if these are assessed across a larger sample of authorities.
- Overheads more than 100% on salary costs can be justified across all authorities on the basis of existing LFR7 returns. Up to 200% could probably be justified if a full assessment is made of bottom up costs.

The overall challenge for returns is as follows. First, development management involves staff undertaking both fee and non-fee paying activity without any formal recording of the split of these activities. Second, development management involves multi departmental inputs which are also not recorded. Third there is no appetite among authorities to change these arrangements and no compulsion to do so. The implication is that whatever the information sought, those completing the returns will have to rely on judgements and estimates in a context where these judgements and estimates are likely to vary by authority.

The basis for setting application fees

In the judgement of the Consultant team there is a good case for retaining existing LFR7 returns because it is the means of completion not the return that is the challenge. However, a decision needs to be made either to keep the return as it is - confined to costs incurred within planning departments - or to seek to improve coverage of costs through improvements to guidance. Several points are relevant here.

- The current role of LFR7 returns in setting fees is not understood by authorities, although some authorities noted that it was not clear that LFR7 returns had been used for this purpose as fee levels did not match recorded costs.
- The onus should be on authorities to provide accurate and fully costed returns to support fee increases, if authorities themselves wish fees to be increased.
- LFR7 returns are part of a family of local authority finance returns and account must therefore be taken of the relationship with these wider returns.
- LFR7 returns are considered to be accurate measures of current planning department costs within a context in which accounting practices and resource levels vary.
- Additional guidance, e.g. on the relationship of LFR7 returns to fee levels, is required to define the role and purpose of LFR7 returns. With this additional guidance and possibly training or dissemination seminars, it is possible to improve incentives to authorities to improve the accuracy of LFR7 returns.
- As an alternative, a wider bottom up approach similar to our case study approach could be used to estimate wider costs in the authority for which fees might also be levied, although we judge on the basis of our own experience that this might face the same problems as current LFR7.

Our overall recommendation is that guidance or a protocol is issued to local authorities setting out the relationship between LFR7 returns and fee levels, thus providing an incentive to improved returns.

LFR7 returns do provide a case for raising current fee levels by about 20% based on an average 83% cost recovery. Further increases may also be justified if a wider bottom up assessment similar to our case study approach is undertaken across all authorities.

- There are not particularly significant differences between the overall aggregated results from LFR7 returns and the findings of the Arup 2005 study, if account is also taken of recent fee increases and the general results of the case studies which suggest that there are additional fee-related costs that could legitimately be taken into account in the wider authority.
- The level of overheads on salary costs is legitimately at least 100% within planning departments when account is taken of costs, accommodation, consumables, administration and support staff. Initial estimates from 7 case studies suggest that if account is taken of other authority costs including costs incurred in other parts of authorities, overheads could rise, potentially by 50% or more, although a fuller investigation is needed across all authorities before this can be determined robustly.

If account is taken of the Arup 2005 study, then there is a good case for focusing part of any fee increase by raising the maximum fee level. This is because cost recovery is considerably lower on larger applications.

Higher fees provide an option for increasing the potential level of resources devoted to development management services. To ensure that these additional resources reach the frontline of development management services there is a case for fee increases to be matched by a strong performance framework.

- Many planning officers feel that the planning service is under-resourced and that additional resources are needed to support a quality service
- Scottish Ministers are already signalling the need for improved performance on planning decisions.

Cost implications of planning reforms

In relation to planning reforms, exact estimates of actual costs are difficult to determine in advance. However, the following is assumed based on specified evidence.

- Changes in neighbour notification will cost £50 - £100,000 to set up and add about 5% to the costs of application handling. This is lower than is estimated by some authorities in Scotland, but reflects the specific proposals made by the Scottish Government in 2008 and English experience. These additional handling costs could be recovered through fees.
- There may be additional costs in setting up processing agreements, but some of these costs could be offset by the efficiency of the handling process that results. Thus, additional costs are difficult to anticipate. We suggest that these costs could be best recovered by raising the fee cap to improve cost recovery on major applications.
- Applications for screening for pre-application consultation could require a few hours of officer time, which could be recovered through an additional fee of £75 - £100. However, it is judged that there will only be a small number of these applications, provided thresholds are clear.

All other reforms are judged to be cumulatively significant in requiring additional resources as part of the objective of improving the quality, speed and transparency of the development management system in Scotland and it is difficult to be specific about the costs of any additional items in advance. Increasing fees to allow higher levels of cost recovery would provide a means of providing more resources to the authority. A stronger performance framework could also provide a means of ensuring that these resources would be devoted to planning.

APPENDIX 4- INVESTING IN DELIVERY- HOW WE CAN RESPOND TO THE PRESSURE ON LOCAL AUTHORITY PLANNING - ARUP,2015. (Research report No 10 for the RTPI)

The report was commissioned by the RTPI to investigate the resourcing of LPAs in the North West of England, but the overall findings are relevant and transferable to the current Scottish context.

- Good examples of LPAs that continue to invest in the planning services.
- Reductions in local authority budgets for planning.
- Decline in local authority planning services.
- Increasing delays and uncertainty in receiving pre-application advice.
- Lack of proactive planning measures.

Arup categorised the various responses by LPAs in terms of resourcing and performance in to 3 discrete categories as follows,

Striving Authorities

- Up to date LDP.
- 5-year land supply.
- Processing applications within timescales.
- Productive and timely pre-applications.
- Strong leadership.
- Good staff morale.
- Innovative attitudes.
- Strategic approach to corporate management and resource sharing.

Surviving Authorities

- Processing applications just within timescales.
- Slow in delivering other development management services.
- Policy making can be limited or slow.
- Planning is a lower priority for councillors and Chief Executive.
- Staff morale can be poor.
- Level of service dependent on the goodwill of officers.
- Considerable out of hours working.
- Non-specialist staff dealing with specialist matters.

Struggling Authorities

- Provide a poorer service as seen by the development community.
- High proportion of appeals.
- No up to date Local Plan.
- Lack of proactive plan making.
- Planning managers have limited experience.
- Weak relationship between senior officers and councillors.
- Resources focussed on appeals and examinations.
- Low staff morale, high staff turnover, sickness rates and difficulty in recruiting.
- Too few staff to maintain service delivery.

APPENDIX 5 - COSTING THE PLANNING SERVICE PROJECT – HEADLINE RESULTS Heads of Planning Scotland (HOPS), 2013 and 2014.

1. Thirty authorities participated in this project, which aims to provide detailed information on the cost of delivering planning services, particularly development management. Two authorities were unable to participate due to other resource commitment, and the methodology was not suitable for use with the national park authorities.
2. The methodology was developed by the Planning Advisory Service and CIPFA and is based on three components – time recording, performance information and detailed financial information. The data collection was carried out in two phases (2013 & 2014) with the results providing a snapshot of information based on a 4-week time recording period, combined with financial and performance information from the previous financial year.
3. Whilst this is an established methodology that has been refined and improved continually since its creation in 2009, there are some natural limitations with the data provided. There are differences in how local authorities structure their financial systems and this affects the level of detail available specifically relating to the planning service in some authorities. Different planning service structures and interpretation of the CIPFA guidance provided for this project will also have an effect. The time recording took place over a 4-week period, with the results aggregated up to an assumed 12 month position. The fee income has been determined from the performance information provided by authorities relating to an 18 month period, averaged to an annual figure.
4. The costs used in these figures include staff time and overheads such as premises, ICT, transport, postage and adverts and external advice. The figures below are the average across the 30 participating authorities (with Round 1 figures adjusted to apply the 20% fee increase introduced in April 2013 to applications received during the data collection period but before this date).

Fee income as a % of full cost of planning service (including policy)

26.5%

Fee income as a % of the development management service (including enforcement)

40.0%

Fee income as a % of core application processing costs (receipt→appeal/local review)

63.1%

There are significant variances between authorities within this average. This is to be expected given the differences in demographics, geography and application profiles between authorities. These differences are likely to have a more significant effect than business process efficiency.

5. Based on these figures, the total national subsidy provided to Development Management services across Scotland is around £36million per year. This averages out at £1.2million per authority, but again there are significant variances between authorities within this average.
6. The detailed information behind these figures is available, and will be provided to the Scottish Government as part of the funding agreement for this project.

APPENDIX 6- PEER REVIEW OUTCOMES ON THE PLANNING PERFORMANCE FRAMEWORK – Heads of Planning Scotland (HOPS), December,2016.

HOPS has just completed a Peer Review exercise to gain feedback from LPAs on the practical effectiveness of the PPF and to identify any changes and best practice. Each LPA was allocated another LPA to assess their PPF against a set of standard questions. The results of this exercise are summarised below,

1. Is the PPF clear and concise?

- Agreement that PPFs were clear, concise and provided a good balance of text, photos, graphics and case studies.
- The aims and objectives are clear and the template approach assists the presentation of a consistent message to Scottish Government.

2. Has there been any feedback from stakeholders on the PPF report?

- Some stakeholder engagement is carried out but not by every LPA.
- Some customer surveys carried out generated a low return rate.
- Some LPAs take a report on the PPF to Committee to ensure political support and discussion.

3. What are the positives to be shared?

- Team development days and reciprocal visits.
- LPA benchmarking and joint sharing of knowledge. E.g. City of Edinburgh PPF team visited Dundee Council to compare PPFs and to visit several case studies.
- Strong context for the LDP and how it is integral to the performance of the planning service.
- Successful delivery of projects is a strong feature.
- Case studies are very helpful and informative, including improved processes, e.g. Scottish Borders improved processes for legal agreements which tackles a recognised drag on performance levels.
- Use of a Development Management Charter.

4. Suggestions to strengthen the next PPF.

- More use of the Place Standard Tool and its use would be helpful.
- Some PPFs are becoming too long and this may affect the appeal to a wider audience.
- The use of statistics can be confusing if different timescales are used.
- In some PPFs there is a duplication of statistics and information.
- More emphasis needs to be placed on the journey of improvement.
- Photographs should be titled and annotated to help the reader.

5. Any issues for further discussion about PPF format or process?

- Keep the PPF focussed and relevant to performance and achievements.
- Need to clarify who the audience is e.g. Scottish Government, Council? Stakeholders? All?
- PPF can be sub divided to suit different audiences e.g. An Executive Summary with key performance figures and outcomes for wider publication and promotion.
- Align the statistics for PPF with current Scottish Government reporting requirements and timescales.

- More promotion required by all interested parties to showcase improvements in performance and what has been delivered on the ground.
- No prior feedback from the Scottish Government before individual assessments are sent to local councils is not considered to be good practice.

APPENDIX 7- HOPS BENCHMARKING GROUPS FEEDBACK, NOVEMBER, 2016.

Summary of the 4 Benchmarking Groups experiences

1. Deadline for submission means this is difficult for authorities who have to submit to committee to do any sort of pre-submission peer review.
2. Some authorities have requested delegated power to write report and then the PPF report and Scottish Government feedback go to a committee meeting later in the year.
3. 2017 May election could cause additional problems with submission dates and timings.
4. Peer review pairings are useful if changed every year. This provides a better range of feedback and learning.
5. One authority carried out a 'self-review' by junior planning staff which the feedback from helped to improve the report
6. Sections feel like they are best addressed by "cutting and pasting" from previous years so not to lose credit.
7. Some authorities received "Reds" which were completely outwith their control e.g. knock on effects of SESplan being delayed. This was not acknowledged.

Stakeholder feedback

1. Uncertainty over the audience for the document.
 - a. Is it annual report or a self-assessment document?
 - b. Difficult to do both
 - c. It would be useful to hear the Ministers thoughts on who he sees as the main audience.
2. Some authorities take these to developer's forums and there is a perceived benefit in doing this.
3. English authorities do not have an equivalent report so some cross-border developers are unaware of the PPF or its purpose

Suggestions for PPF report improvement

1. Have all of the stats in an Appendix at the end of the document
 - a. Suggestion of a central resource for these to be uploaded to keep a record and kept in the same format
 - b. Having 2 years data shown in the stats may not provide the best information to display. This doesn't provide the whole story
2. Drop the requirement of fully updating case studies, it can be common that there is little progress done on some major projects over the space a of a year.
3. Submissions dates do not work well with staff holidays during the summer months
 - a. What will be the effect of the 2017 election?
4. Report feedback from SG is required earlier than the end of November
5. A schedule should be provided at the start of the year noting all the key dates
 - a. Guidance release
 - b. Initial group meetings
 - c. Peer Review partnerships

- d. Report submission
 - e. Peer review response period
 - f. Scottish Government feedback
 - g. Follow up group meetings
6. Tables/footnotes of how case studies relate to markers are useful

Statistics

Staffing

- 1. Improved guidance on what constitutes a team leader or manager
- 2. How to record support staff if they are split between departments
- 3. How to record seconded members of staff
- 4. The age profiles are looking healthier than in previous years

Costs

- 1. Standardisation is required, too many variables so there is little confidence in the information supplied.
- 2. Ministers will be interested in these stats but there is little external interest (back to the issue of who is the audience)
- 3. It would be useful to ask accountants what could be supplied in a comparable format

Development Management

- 1. Pre-application
 - a. Would be useful to show both the number and percentage
 - b. Tighter definition of what can be included in this indicator
- 2. Major applications subject to a processing agreement may be better shown as a percentage
- 3. The indicator on project plans is not being used
- 4. Enforcement cases, it would be useful to log how many complaints are lodged compared to cases identified
- 5. It would be very useful to have an indicator showing the number of cases being dealt with by officers, the West of Scotland do this for their meetings.
- 6. Possibly add an indicator on number (or percentage) of applications valid on receipt.
 - a. Would authorities be able to monitor this in IDOX
- 7. Legacy cases, reporting is fine
 - a. A lot of authorities would like a method of legally withdrawing cases
- 8. Any reason for the Enforcement Charter status to be included?

Development Planning

- 1. Housing Statistics though improved are still somewhat open to interpretation.
- 2. How to address issues with strategic planning authorities

APPENDIX 8

KEY ELEMENTS OF A HIGH PERFORMING PLANNING SYSTEM. (Summarised from Resourcing a High Quality Planning System, 2010).

Local Planning Authorities

- Up to date Development Plan
- Quality of the decision making
- Outputs seen as equal in importance to speed of decision making
- Sustainable outcomes
- Public and community involvement and access to the planning system
- Good customer relationships
- Being “open for business”
- Transparent, open and delivering continuous improvements
- The 6 P’s- Performance, Process, People, Partnership, Policy and Product

Developers and Agents

- Good communication with timely, quality responses
- Approachability of the Local Planning Authority
- Planning officers should act as facilitators, project managers, as impartial professionals, encouraged to take individual responsibility for achieving performance targets and responsive to complaints- and there should be mentoring and training available for them
- Continuous liaison between councillors and officers
- Clear service levels delivered consistently and efficiently across authorities- LPAs should be properly resourced to action this
- Certainty of timescales and decisions- not necessarily speed
- The system should be fair, transparent and accessible