



The Advisory Panel on Standards for the Planning Inspectorate



Fourteenth Report

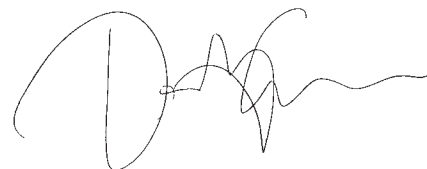
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1. Introduction from the Chairperson



1. This is the 14th Report of the Advisory Panel on Standards for the Planning Inspectorate, often known as APOS, and in the rest of this Report referred to as the Panel. The Report relates to the work of the Inspectorate between 1st April 2007 and 31st March 2008.
2. No changes to the Panel took place during 2007/08. In the Introduction to our 13th Report, I drew attention to the changes in administrative arrangements for the Panel, whereby our secretariat is now provided by the Inspectorate, based in Bristol. Those arrangements have continued to work well. The members of the Inspectorate's staff who provide our secretariat have now changed. Recently, Alan Payne and Diana Wiggins retired, and Val Lucas moved to another post within the Inspectorate. I wish to record the Panel's gratitude for the excellence of their work. In particular, Alan Payne made a major contribution to the establishment of our new administration. I thank him for his wisdom, as well as diligence and good humour. Responsibility for our secretariat has been taken over by Robert Watson and David Cobbin.
3. As in the previous Report, I pay tribute to the co-operation we have received from Katrine Sporle, Chief Executive of the Inspectorate, and Leonora Rozee OBE, Director of Development Plans, Policy and Quality. During 2007/08, Malcolm Brady, head of the Quality Assurance Unit, retired. I thank him for his help to the Panel, and record our appreciation of his enthusiasm for quality in the Inspectorate's work. His place has now been taken by Sean Canavan, with whom we look forward to working.
4. The Ministerial Quality Target is at the base of our work. That target has a quantitative aspect, to which we refer also as the "numerical target"-that 99% of the Inspectorate's casework shall be free from justified complaint. Further, the Inspectorate is to satisfy the Panel, and thus the Secretary of State and the First Minister of the Welsh Assembly Government, that the quality of its work is being maintained at a high standard. That is the "qualitative" aspect of the target.
5. I am pleased to report that the Inspectorate has again met the Ministerial Quality Target during 2007/08. I have previously referred to the high esteem in which the Inspectorate has held. That continues. Further, I believe that the Inspectorate's performance has generally improved during 2007/08.

A handwritten signature in black ink, appearing to read 'Timothy Corner', written in a cursive style.

Timothy Corner, QC
September 2008

2. The Panel's analysis of the quality of the Inspectorate's work

6. The Panel's essential function is to advise Ministers on the maintenance of the quality of the work of the Inspectorate. The purpose of this Section is to explain our findings in detail.
7. Our main sources of information are as follows;
 - (a) Information on complaints made to the Inspectorate, and other challenges to its work, including High Court Challenges and complaints to the Ombudsman;
 - (b) Issues or trends arising from our own monitoring of complaints;
 - (c) The annual Customer Satisfaction Survey;
 - (d) Our contacts with Stakeholders; and
 - (e) The experience of Panel members.
8. By considering all the above information together, we are able to assess the quality of the Inspectorate's work.
10. The distinction between significant and minor justified complaints is not relevant to the quantitative part of the Ministerial Quality Target. However, it assists in forming a view as to the overall quality of the Inspectorate's work.
11. Decisions by Inspectors, or by the Secretary of State based on the report of an Inspector, can be challenged in the High Court. Decisions cannot be challenged on the planning merits of the case, but only on a point of law. Broadly, the challenger must prove that the decision-maker failed to take account of a material consideration, took account of a consideration which was not material, or reached a decision which was irrational. An example of a case where a decision might be quashed by the Court is where the Inspector misunderstood and therefore misapplied a policy in the development plan.

Complaints and challenges: general

9. One vital component of the information we consider is the complaints made to the Inspectorate about its casework. Complaints can be made direct to the Inspectorate about an Inspector's work. All such complaints are handled by the Inspectorate's Quality Assurance Unit ("QAU"). QAU judges whether complaints are justified. Justified complaints are divided into two categories;
 - (a) "Significant justified complaints" are complaints that could have affected the outcome of a case or which could seriously reduce public confidence in the planning system;
 - (b) "Minor justified complaints" are all other complaints.
12. The activities of the Inspectorate are subject also to the scrutiny of the Parliamentary and Health Services Ombudsman in England, and the Public Services Ombudsman for Wales.
13. All the above sources of complaint or challenge are taken into account when assessing whether the quality of the Inspectorate's work has been maintained to a high standard.
14. Further, justified complaints to the Inspectorate and successful High Court challenges of decisions are taken into account in assessing whether the numerical target within the Ministerial Quality Target has been met; i.e. that 99% of the Inspectorate's casework should be free from justified complaint.

15. In our 13th report we recommended¹ that justified complaints about Inspectors' reports on development plan documents, and successful legal challenges to development plan documents where the challenge related to an Inspector error, should be taken into account in deciding whether the numerical target has been met. We are pleased to note that our recommendation has been accepted.
16. Complaints relating to the Inspectorate's administrative procedures are not taken into account for the Ministers' numerical target. Accordingly, we deal with them separately from complaints and challenges about Inspector casework.
17. A substantial part of the Panel's activities comprises our own monitoring of the complaints made to the Inspectorate. Further, in the course of their own legal practice, the lawyer members of the Panel read the judgements relating to a high proportion of successful legal challenges.
18. Our monitoring of complaints is important for two reasons. First, justified complaints to the Inspectorate form part of the information on the basis of which we decide whether the Inspectorate has met the numerical target that 99% of casework should be free of justified complaint. We need to be satisfied that QAU is making the right decisions as to whether complaints are justified. Secondly, our monitoring gives us much information for our general views on the Inspectorate's performance. A later part of this Section contains our observations derived from our monitoring during 2007/08.
19. We read the papers relating to every complaint considered by QAU to be justified. That includes complaints relating to administrative actions within the Inspectorate, as well as complaints about the decisions and reports of Inspectors. Also, we review 10% of those complaints considered by QAU to be unsubstantiated. We provide a written analysis of each complaint monitored. Where we disagree with QAU's assessment of a complaint, in relation either to whether the complaint is justified, or to whether any error is significant or minor, we so indicate. Our analysis of each complaint also states whether we consider that it gives rise to any general lessons. If we disagree with QAU's assessment of whether a complaint is justified, that is taken into account in deciding whether the numerical target has been met. We are pleased that the Inspectorate considers our comments on an ongoing basis, and this, as well as the recommendations contained in our Reports, has led to improvements in practice.

¹ 13th Report, paragraph 20, page 5

20. The table below sets out the extent of disagreement about the assessment of complaints in 2006/07 and 2007/08.

	APOS	Accepted by PINS
2006/07		
Quarter 1	2 minor JCs ↑ to significant JCs 1 significant JC ↓ to minor JC 1 minor Inspector JC → to admin JC	2 minor JCs ↑ to significant JCs 1 minor Inspector JC → to admin JC
Quarter 2	4 minor JCs ↑ to significant JCs 1 significant JC ↓ to minor JC 1 significant JC ↓ not JC	4 minor JCs ↑ to significant JCs 1 significant JC ↓ not JC
Quarter 3	3 minor JCs ↑ to significant JCs 1 significant JC ↓ to minor JC	3 minor JCs ↑ to significant JCs
Quarter 4	1 minor JC ↑ to significant JC 2 significant JCs ↓ to minor JCs	1 minor JC ↑ to significant JC 1 significant JC ↓ to minor JC
2007/08		
Quarter 1	2 minor JCs ↑ to significant JCs 1 significant JC ↓ to minor JC 1 unsubstantiated ↑ to minor JC	1 unsubstantiated ↑ to minor JC
Quarter 2	1 minor JC ↑ to significant JC 4 significant JCs ↓ to minor JCs 1 unsubstantiated ↑ to minor JCs	1 minor JC ↑ to significant JC 2 significant JCs ↓ to minor JCs 1 unsubstantiated ↑ to minor JCs
Quarter 3	1 minor JC ↑ to significant JC 1 significant JC ↓ not JC 2 minor JCs ↓ not JC 2 unsubstantiated ↑ to minor JCs	1 minor JC ↑ to significant JC 1 significant JC ↓ not JC 1 minor JCs ↓ not JC 2 unsubstantiated ↑ to minor JCs
Quarter 4	3 minor JCs ↑ to significant JCs 2 significant JCs ↓ to minor JCs 2 unsubstantiated ↑ to minor JCs	2 minor JCs ↑ to significant JCs 2 significant JCs ↓ to minor JCs

21. As in previous years, we are satisfied that QAU is taking a correct approach to the consideration of complaints. There is a small number of cases where we have considered that a complaint categorised by QAU as unjustified was justified, and on occasion we considered a complaint thought by QAU to be justified was not justified. Again, we occasionally disagree with QAU's assessment of whether a justified complaint was significant

or minor. Views on such matters will inevitably differ from time to time, but the extent to which our view differs from that of QAU is small. We cannot consider every complaint made to the Inspectorate, but on the basis of our monitoring, we do not think our conclusions on the number or seriousness of justified complaints would have been significantly different from those reached by QAU.

Complaints and challenges: the results for 2007/08

Complaints and challenges relating to Inspector casework

22. We are pleased to report that, as in previous years, the Inspectorate met the numerical target that 99% of its casework should be free from justified complaint. The actual figure was 99.1%. We have referred above to cases where we disagreed with QAU's assessment of whether a complaint was justified. Even if the results had taken account of those disagreements, the target would still have been met.
23. Two hundred and thirty two justified complaints were made to the Inspectorate. In just over 100 of those cases, the error was typographical, or related to proof reading. Most of these errors would not have affected the result or clarity of the decision. In about 10% of cases the error was a minor factual one, which did not affect the outcome of the appeal. Most of the remaining cases concerned misinterpretation of a relevant factor, inadequate reasoning or problems relating to conditions. Two cases involved failure to comply with the rules of Natural Justice.
24. A summary showing the type of complaint received over the past five years is in the table below:

Summary of Inspector Justified Complaints	2003/04	2004/05	2005/06	2006/07	2007/08
1. Typographical/Presentational & Proof Reading	99	78	119	122	103
2. Minor Factual Errors i.e. did not affect the outcome of the appeal	22	21	28	19	20
3. Conduct of site visit, Hearing or Inquiry	2	7	4	4	2
4. Material considerations	26	27	20	30	51
5. Inadequate reasoning/justification for the decision	7	11	13	17	14
6. Other Significant Errors that could have affected the outcome	2	1	3	3	8
7. Inclusion of unnecessary or 'helpful' comments	3	0	4	1	2
8. Conditions	12	17	18	26	25
9. Failure to comply with rules of Natural Justice	0	3	2	1	2
10. Technical problems with enforcement decisions	0	2	1	2	3
11. Errors in costs decision letters	2	0	1	3	2
Totals	175	167	213	228	232

25. Turning to High Court challenges, 35 decisions were quashed in 2007/08. Of those, 29 related to Inspector casework, and were counted towards the numerical target. All save one² of the remainder concerned procedural errors within the Inspectorate. Most decisions quashed because of Inspector error arose from inadequate reasoning or failure to take account of relevant considerations. One case involved a breach of the requirements of Natural Justice,

by new issues being raised after the hearing or inquiry without the parties being given an appropriate opportunity to deal with them.

26. We are provided with statistics showing the proportion of each type of casework that has led to justified complaint being made to the Inspectorate, or a quashed decision in the High Court. The statistics for the past five years are set out in the following table:

Quality of Decisions by Casework Type										
Casework type	2003/04		2004/05		2005/06		2006/07		2007/08	
	Decisions issued	JCs/QDs as % of decisions	Decisions issued	JCs/QDs as % of decisions	Decisions issued	JCs/QDs as % of decisions	Decisions issued	JCs/QDs as % of decisions	Decisions issued	JCs/QDs as % of decisions
Adverts	1271	0.31	1266	0.33	1197	0.58	1044	0.57	1048	0.57
Rights of Way	338	1.78	363	1.38	391	1.28	464	1.51	448	0.67
Access	862	0.00	2405	0.12	241	0.00	9	11.11		
High Hedges					27	7.41	302	2.65	202	4.95
Enforcement	2407	0.83	2159	0.88	2730	1.03	2851	1.12	3500	1.31
Planning	19635	0.95	18051	0.94	23169	0.85	22148	0.97	21816	0.90
Costs	1369	0.00	1397	0.00	1151	0.09	1489	0.20	1391	0.00
Other	175	0.00	1027	0.39	182	1.65	227	3.08	66	0.00
Totals	26057	0.83	26628	0.77	29088	0.84	28534	0.98	28576	0.91

27. The percentage of planning appeals and enforcement appeals subject to justified complaint or quashing in the High Court was 0.90% and 1.31% respectively.

quashed 51 decisions because of Inspector error, reversing the trend established in previous years of an annual reduction in the number of decisions quashed.

28. In overall terms, the above results are an improvement on 2006/07, and are more similar to the Inspectorate's performance in previous years. In 2006/07 the numerical target of 99% of decisions being free of justified complaint was only just met. Further, the High Court

29. There is, however, one cause for concern in the figures for 2007/08. A higher proportion of the justified complaints related to significant errors than in previous years. The percentage for 2007/08 was 44%, compared with 41%, 33%, and 38% in 2004/05, 2005/06, and 2006/07.

² One decision was quashed because of the Local Planning Authority's failure to submit objections made to it in a Rights of Way case.

Further, the *number* of significant justified complaints was the highest for any year for which we have relevant figures.³

30. This suggests a continuing need for vigilance about the quality of Inspectors' casework.
31. In our last Report we referred⁴ to judicial decisions on the various methods of determination of planning appeals, and the proposal that the Inspectorate should have the power to determine the most appropriate appeal procedure. The measure has been included in the Planning Bill and subject to its successful passage through Parliament, the Inspectorate will have the power to decide whether appeals should be determined by written representations, hearing, or inquiry. This is a most important change to the current system, whereby parties can choose the method of determination. We therefore **RECOMMEND** that the Panel should be involved in the production of criteria for choosing the method of determination of appeals, and that we should see any complaints made to the Inspectorate about its decisions as to the method of determination.

Administrative complaints and challenges

32. In our 13th Report⁵ we recommended that a separate Ministerial Quality Target for administrative errors should be set, to include justified administrative complaints, decisions quashed by the High Court because of administrative error, and successful complaints to the Ombudsman related to administrative error.
33. We are pleased that the Inspectorate has now adopted the target that "the quality of the Inspectorate's administrative procedures is being maintained at a high standard with 90 % of casework free from justified complaint."⁶
34. We consider that the adoption of this new target is appropriate recognition of the importance of administrative efficiency to the quality of the Inspectorate's service. We will monitor closely the Inspectorate's performance against this target, and will consider as part of our ongoing work not only whether the numerical target is being satisfied, but also whether it is sufficiently rigorous.

3 The years for which we have relevant statistics start with 1999/2000

4 13th Report, paragraphs 42-44, page 13

5 13th Report, paragraph 24, page 6

6 Page 62 and Annex C of Planning Inspectorate Annual Report and Accounts, 2007/08

35. The table below summarises the administrative justified complaints received during the last five years:

Summary of Administrative Justified Complaints	2003/04	2004/05	2005/06	2006/07	2007/08
1. Failure to handle representations properly		6	9	10	11
2. Failure to answer specific procedural questions		3	4	10	8
3. Failure to record specific procedural actions/decisions on file		1	1	1	4
4. Failure to interpret Rules/legislation properly		2	3	4	1
5. Issued Decision before time limits expired		2	6	3	0
6. Failure to send decision to interested party		30	15	19	15
7. Failure to negotiate or inform parties about date:		15	41	13	9
8. Failure to cancel date arrangements with party(ies)		1	2	0	0
9. Failure to issue Decision within time limits		3	1	1	1
10. Acceptance of late representations without good reason		1	0	0	0
11. Late reps returned without considering whether circumstances exceptional		0	0	0	1
12. Complaints about handling of post-decision correspondence		9	7	2	4
13. Other administrative problems		28	15	9	16
Totals	72	101	104	72	70

36. In 2007/08, there were 70 justified administrative complaints. Fifteen of those complaints related to failure to send out a copy of a decision to an interested party. Eleven complaints related to failure to handle representations properly; either representations were not copied to parties or to the Inspector, documents not placed on file, or representations not acknowledged. The 70 justified complaints represented 0.23% of decisions and reports. In addition to the justified complaints, five

decisions were quashed in the High Court because of administrative errors. Those errors included failure to give an Appellant the opportunity to comment on representations submitted by the Local Planning Authority, and the issue of the Inspector's original version of a decision letter instead of his later, amended, version.

37. The statistics for administrative errors are similar to those for 2006/07, when there were 72 justified administrative complaints and three decisions quashed in the High Court because of administrative error.⁷ This represents an encouraging trend when compared with 2004/05 and 2005/06. In both of those years, there were over a hundred justified complaints.⁸

Ombudsman cases-England

38. Complaints to the Ombudsman about the Inspectorate remain rare, as compared with the experience of local authorities.

39. So far as England is concerned, during the year 2007/08 the Parliamentary and Health Services Ombudsman carried out only one formal investigation of any of the complaints she received about the Inspectorate's work. This related to an assumption made by an Inspector as to the actual use of a room in an adjoining property to the appeal site. While the error made no difference to the actual decision due to the distance between the properties, the Inspector was reminded of the dangers of making assumptions when there was no evidence to support that view.

APOS monitoring: observations by the Panel

40. Most of the errors which are the subject of justified complaints are factual or typographical mistakes which reinforce the need for care. The general experience of APOS is that where errors are made, the decision as a whole is still well-written. Some wider lessons do emerge from our monitoring:

(i) Inspectors should be careful to ensure that factual comments are accurate. In particular they should avoid making assumptions or drawing conclusions from unclear documents without asking the parties. Complaints have arisen from assumptions about the layout of neighbouring properties or the details of the application when plans are inconsistent. If the point is germane to the decision then it should be checked. On a written representations case this will involve the case officer asking the parties for clarification. If the issue does not need to be resolved to determine the appeal, then it should be left out;

(ii) In a number of cases Inspectors have made mistakes about changes to the planning system. To begin with, Inspectors have made wrong assumptions about whether plans have expired. There have also been cases where Inspectors have expressed uncertainty whether adopted development plan documents have been subject to examination or adopted supplementary planning documents have been consulted upon. Since statutory procedures provide for examination and consultation respectively there should not have been uncertainty. Whilst these errors might not alter the outcome of the appeal, they do affect confidence in the expertise of Inspectors. At a time when many changes are being made to the planning system, Inspectors should ensure they are aware of the Inspectorate's briefings on recent developments and, if in doubt, check;

(iii) Inspectors should be careful to refer to relevant appeal decisions brought to their attention and be clear as to why there is any difference in their conclusions;

7 13th Report, paragraph 49, page 14

8 13th Report, paragraphs 46 and 47, pages 13-14

- (iv) Complaints about the conduct of site visits are rare. However there are occasions when errors are made. Inspectors need to be vigilant to ensure that they are seen to treat the parties equally and that they see everything relevant.

We **RECOMMEND** that these matters are drawn to the attention of Inspectors and borne in mind when preparing training and briefing materials.

The views of stakeholders

41. An important source of information about the quality of the work of the Inspectorate is the views expressed by stakeholders- i.e. consumers of the Inspectorate's services and other interested persons. We learn about those views from the Customer Satisfaction Survey, and from our own contact with stakeholders.

Customer Satisfaction Survey (CSS)

42. The Inspectorate is asked by Ministers to carry out an annual survey of customer satisfaction with its performance, and to act on its results. This Customer Satisfaction Survey ("CSS") has taken place each year. We consider that the CSS is a valuable aid to assessing the Inspectorate's performance. We have been consulted on the questionnaires, and have made comments in writing.
43. The CSS is based on a combination of qualitative and quantitative research methods. The qualitative research involves a series of meetings, focus groups, and in-depth interviews

with customers and representatives of interested organisations. Further, an Inspectorate Customer Panel has been formed, whose members are invited to complete a detailed online questionnaire and to comment on various leaflets and other guidance produced by the Inspectorate. For the "quantitative" part of the exercise, a postal survey of customers, selected at random, takes place. For 2007/08 1369 questionnaires were returned from a total of 4000 sent out. This is lower than the number of returned questionnaires returned in the two previous years.⁹ Care will need to be taken in future years to ensure that stakeholders are given sufficient encouragement to return the questionnaires sent to them.

44. The CSS results for 2007/08 are generally encouraging. As in previous years, the level of satisfaction with the Inspectorate was high. The overall level of satisfaction with the Inspectorate was 70%¹⁰, higher than in either of the two previous years.
45. So far as appeals are concerned, satisfaction with Inspectors was high, and generally greater than in the previous year. The level of satisfaction with the overall effectiveness of inquiries was 80%¹¹, with hearings 82%,¹² and written representations cases 76%.¹³
46. These levels of satisfaction are an improvement on 2006/07, and are comparable with the years before then.¹⁴

9 1535 in 2005/06, and 1498 in 2006/07. See APOS 13th Report, paragraph 70, page 18.

10 CSS 2007 figure 3.7. Compare with 13th Report, paragraphs 71 and 76, page 18.

11 CSS 2007 figure 4.5

12 CSS 2007 figure 4.9

13 CSS 2007 figure 4.11

14 13th Report, paragraph 77, page 18

47. Customer satisfaction with the Inspectorate's staff was at least equal to, and in many respects somewhat higher than, in the previous year, and comparable to the results for 2005/06.¹⁵ As examples, nearly 80% of respondents were satisfied with the helpfulness of staff and the clarity of correspondence. Over 70% were satisfied with the clarity of verbal answers to enquiries, and the speed with which such enquiries were dealt with.
48. The use of Inspectorate publications was slightly lower in 2007 than in previous years.¹⁶ The CSS comments that this may be due to the increased use of the Internet to obtain information¹⁷. However, there is a high level of satisfaction with the various Inspectorate publications, comparable with that in the previous two years¹⁸.
49. Levels of satisfaction with the complaints process were generally an improvement on 2006/7, but not as high as in 2005/06. For example, in 2007/08 46% said that "it did not take long to deal with a complaint",¹⁹ compared with 43% in the previous year²⁰, and 56% in 2005/06²¹. The percentage of satisfaction overall with the complaints process was 18% in 2007/08²², compared with 13% in 2006/07²³, and 26% in 2005/06²⁴.
50. The most recent CSS concludes that overall satisfaction levels are high, and generally improved when compared with the previous year. The mean satisfaction level across all aspects of the Inspectorate's services showed an increase in 2007 to 81%, the highest level of satisfaction since 2002. The CSS goes on to highlight areas for improvement emerging from the 2007 survey. It is pointed out that satisfaction with contact with the Inspectorate's staff has increased since 2006, but is still less than in 2002 for most aspects, in particular the speed with which telephone calls are answered and then passed to the appropriate person. Satisfaction with clarity of response and helpfulness of staff is also down slightly since 2002. The survey draws attention also to the complaints process, and, while acknowledging the improvement in satisfaction levels since the previous year, suggests that there is still room for improvement.
51. As in previous years, the CSS highlights the identified need for improvements to the speed of the appeal process. We deal with the issue of timeliness in a later section of this report. However, it is appropriate to point out here that the CSS inevitably presents a picture of customer views that is to an extent historical when the survey is published, and that the speed of the process has improved recently.

15 CSS 2007 figure 3.1

16 CSS 2007 figure 3.2

17 CSS 2007 paragraph 3.3.1

18 CSS 2007 figure 3.3

19 CSS 2007 figure 3.4

20 CSS 2006 figure 3.4

21 CSS 2005 figure 3.5

22 CSS 2007 paragraph 3.4.1

23 CSS 2006 paragraph 3.4.1

24 CSS 2005 paragraph 3.4.1

Meetings with stakeholders

52. As in previous years we have spoken to individuals and organisations in order to gain direct insight into the views of interested persons. These opportunities can arise at meetings organised directly on behalf of the Panel. Further, the Inspectorate organises its own series of meetings with stakeholders, and we have attended a number of those. A list of organisations with which we have met during the period covered by this Report is at Annexe E.
53. In addition to our contacts with stakeholders, we draw on our own experience of the work of the Inspectorate. Several Panel members attend inquiries and hearings in the course of their professional work. During the course of the year, other Panel members have attended inquiries and hearings specifically for the purpose of carrying out research on behalf of the Panel.

Experience in Wales

54. The quality of Inspector casework remains high. In November 2007 the Panel met Jane Davidson, the Welsh Assembly Minister for Environment, Sustainability and Housing, to discuss the work of the Panel. At that meeting it was agreed that there should be made available specific information on the performance of the Inspectorate in Wales. Accordingly, from the start of the year 2008/09, the Inspectorate is publishing separate information to show the performance of the Inspectorate in Wales against the numerical target that 99% of casework should be free from error. We have been provided with statistics for the past two
- years which show that if the numerical target had been applied to Wales separately, it would have been met in 2007/08 (99.2% of decisions were error free) but not in 2006/07 (98.9% were error free).
55. Further, we expressed interest in obtaining information about the level of customer satisfaction in Wales, separate from that for England. Thus far, the CSS has dealt with England and Wales together. It is therefore proposed that the 2008 CSS should provide statistical information specific to Wales and we so **RECOMMEND**. For the 2007 CSS, a Welsh Focus Group was convened, and Chapter 6 of the CSS summarises the results of that meeting. This provides useful qualitative information on perceptions about the Inspectorate in Wales. The Focus Group was very positive about the Inspectorate's performance. Overall, levels of satisfaction with the Inspectorate's performance appear to be similar to those in England. The 2008 CSS, which will contain statistical information for Wales, will enable performance in England and Wales to be compared.
56. As in previous years, the Inspectorate in Wales has a good proportion of Welsh speakers. Twenty per cent of its staff speak Welsh, which compares well with other organisations in Wales.
57. Turning to the involvement of the Public Services Ombudsman for Wales, three complaints about the performance of the Inspectorate were received in 2007/08. As at 1st August 2008, two of those complaints had been rejected by the Ombudsman, and one was still under consideration.

Monitoring by the Inspectorate

58. In our 13th Report²⁵, we recommended that the Inspectorate should consider the reintroduction of “random” monitoring. By this we meant a process of monitoring of the quality of decisions which is not prompted by complaints. We drew attention to the fact that people do not always complain, even where a service falls below the appropriate standard. Furthermore, it is possible for errors to be made which are not spotted by the parties. An expert eye may discern an error which is not apparent to others.
59. We are pleased that the Inspectorate has adopted our suggestion. It has made progress in this regard in three ways;
- (a) A reading unit has been established within the Directorate of Policy. Its purpose is to read sample Inspector decisions to assess their quality and consistency. So far, the unit’s focus has been on decisions by trainee Inspectors. However, the intention is to use the unit to carry out wider reading exercises involving experienced Inspectors also.
 - (b) In parallel to the establishment of the reading unit, in May 2007 all field Inspectors were asked to send to QAU a recent example of a planning appeal decision. The decisions were read by senior Inspectors in order to assess their quality, to identify areas where additional guidance or training might be needed, and to provide a baseline for future analysis.

- (c) The Inspectorate is developing a quality monitoring approach based on examining specific topics. During 2008/09, the intention is to look at design, to follow up the design training recently provided for Inspectors.

60. We commend the Inspectorate for this action, which shows a willingness constantly to seek ways of improving quality. We will take a close interest in the progress of these and any other initiatives.

The quality of the Inspectorate’s work: overall summary

61. As in previous years, we can report that Inspectors’ casework is generally of very good quality. That quality is reflected in the fact that the Ministers’ numerical target has been met during the year under review in this Report. It is reflected also in the favourable views expressed in the CSS, our meetings with stakeholders, and our own experience.
62. In our 13th Report²⁶ we identified areas of concern, and said that the evidence suggested that the overall quality of Inspectors’ casework had not improved recently, but had if anything declined. In 2007/08 we consider there has been some improvement. We say that for the following reasons. To begin with, the numerical target was met by a greater margin than in the previous year. Secondly, we were pleased to see that the number of successful High Court challenges was lower than in 2006/07. Thirdly, the CSS showed levels of satisfaction that were in most areas higher than in the previous year.

25 13th Report, paragraph 89, page 21

26 13th Report, paragraphs 93-95

63. However, against those positive indications should be set the higher proportion of significant justified complaints during 2007/08.
64. Overall, our view is that the quality of Inspector casework continues to be very high, and that it has probably improved during 2007/08. We are aware that the Director of Development Plans, Policy and Quality makes every effort to ensure that information about good practice is disseminated among Inspectors. We trust that this will continue.
65. Turning to the Inspectorate's administrative procedures, the level of justified administrative complaints was similar to the previous year, and lower than the two years before that. This is commendable, and our view generally is that concerns about the Inspectorate's administrative procedures have eased somewhat in the past year. However, some problems remain.
66. There are still cases where the Inspectorate does not send out copies of parties' proofs of evidence in good time. We appreciate that providing the parties to appeals with copies of the opposing sides' evidence is a substantial burden on the Inspectorate. In 2007 Government proposed²⁷ that parties should be required to send copies of their evidence directly to each other. This seemed to us a sensible proposal, which would enable the Inspectorate to concentrate on its primary task of efficiently and expeditiously reaching high quality decisions. However, it has now been decided not to proceed with the proposal, and the Inspectorate will continue to be responsible for the copying of evidence.
67. We have also been made aware of some concerns about the reluctance of the Inspectorate to allow amendments to schemes once an appeal has been submitted. Indeed, Government has decided²⁸ to strengthen the power of the Secretary of State and Inspectors to refuse to consider amendments, and to reject new material, once an appeal has been made. The Court made clear in Wheatcroft (Bernard) Ltd v Secretary of State²⁹ the basis on which it should be decided whether to accept amendments to planning applications. We think it important that care is taken not to prevent amendments or new material unless it is necessary to do so. Clearly this must be prevented if any party to the appeal, including a third party such as a local interest group or local resident, is prejudiced. However, prevention of amendment or new material is unlikely to be necessary where such prejudice would not occur.
68. As in previous years, some stakeholders report problems arising from dates for inquiries being fixed because of the drive to meet targets. We anticipate that such concerns will be eased by the introduction of "bespoke timetables" for major cases. This change is referred to in section 4 of this Report.³⁰

27 "Improving the Appeal Process in the Planning System-Making it proportionate, customer focused, efficient and well resourced."

28 Government's Response to consultation on "Improving the Appeal Process", page 17

29 (1982) 43 P&CR 233

30 See paragraph 91.

69. Finally, during the year it came to our attention that there were incidents where team email boxes were full and documents were therefore being returned by the Inspectorate. We have since been informed that all team email boxes have been doubled in size and that the Inspectorate will be monitoring the volume of emails received, to see that the allocated size of email boxes is adequate. We will keep this under review.

Operation of the Slip Rule

70. In our 13th Report³¹ we recommended that the Inspectorate, in consultation with the Secretary of State and the Welsh Assembly Government, confirm whether the slip rule applied to costs

decisions, and if not, appropriate amending legislation should be sought to enable the rule to be applied. It has been confirmed that the slip rule does not apply in such cases but we have not been informed whether legislation has been considered. Extending the slip rule would be a modest but useful improvement, particularly as costs decisions can prove contentious. We therefore **RECOMMEND** that the Secretary of State and the Welsh Assembly Government promote legislation to include costs decisions in the scope of the slip rule.

31 13th Report, paragraph 57, page 15

3. Development Plans

71. The new development plan system has now been in place for several years. By the beginning of July 2008, 165 Development Plan Documents (DPD) had been received by the Inspectorate. Of those, the examination of 54 was in progress. Of the 111 DPDs whose examination had been completed, 12 had, after examination, been found to be unsound, 68 had been decided to be sound, and 31 were withdrawn. The fact that a number of DPDs were withdrawn is likely in part to reflect the efforts of the Inspectorate to begin work on DPDs as soon as possible after their submission, in order to ensure that DPDs which are clearly unsound are withdrawn as soon as possible. This prevents the waste of resources by a flawed DPD being subjected to a lengthy oral examination.
72. In our 13th Report,³² we said we had been consulted by the Inspectorate on the Protocol which it had drawn up for its own quality control assessment of Inspector reports on DPDs. The Quality Assurance team comprises senior Inspectors experienced in development control work. All draft reports are read in detail, together with the submitted DPD, and amendments to the reports suggested, including where appropriate substantive changes of approach, such as issues of consistency, or the interpretation of national policy. The Panel has been shown an example of the Quality Assurance team's work. We were impressed by its care and detail.
73. Overall, individual Inspectors and the Inspectorate's central organisation are working hard to make sure that robust, soundly based development plans are produced. It is crucial to ensure that DPDs are properly scrutinised, to check their reasoning and to verify that there is sufficient evidence to support the conclusions reached. We believe that the Inspectorate recognises this, and we note that Inspectors conducting examinations are providing opportunities for the questioning of evidence by the parties, including, where necessary, formal cross examination.
74. The new system places substantial burdens on the Inspectorate. Those burdens will in the near future increase, because the number of DPDs submitted for examination is expected to rise substantially.
75. Given the relatively small annual number of DPD examinations in comparison with the number of planning appeals, any problems relating to the quality of the Inspectorate's work in this area may well not be revealed by a large number of complaints, or in the results of the CSS. That makes it all the more important for the Inspectorate, and the Panel, to keep a close watch on the quality of reports of examinations of DPDs. We therefore **RECOMMEND** that the Inspectorate continues carefully to monitor the quality of Inspectors' reports following their examination of Development Plan Documents.

32 13th Report, paragraph 133, page 29

4. Timeliness

Introduction

76. In this section of our Report we consider the issue of timeliness. Our main focus is on the quality of the decisions and reports of the Inspectorate. However, just as administrative efficiency, considered in Section 2, is a part of the overall quality of the service, so also is timeliness. Delay in the issue of decisions and reports can cause serious prejudice to consumers of the Inspectorate's services, whether they are businesses who wish to proceed speedily with their investment plans, or local authorities and residents who are anxious for clarity about land use in their area.

Results for 2007/08

77. Timeliness targets for most aspects of casework are set by Ministers. They vary to a degree from year to year. The targets for 2007/08 were the same as those for the previous year. We consider below how well the Inspectorate has performed against those targets.

78. The Ministerial targets and the Inspectorate's performance against them are set out in Annex B of the Inspectorate's Annual Report and Accounts.

79. For cases decided by the Secretary of State, the target was that 80% of inquiries and hearings should be opened within 22 weeks of the start date of the case. A performance of 52% was achieved in 2007/08, an improvement on the 25% figure for 2006/07. A further target is that all decisions should be issued in accordance with statutory timetables. That target was met.

80. We turn to *written representation* appeals decided by Inspectors. For planning appeals,

the target was that by the end of the year (i.e. in March 2008) 50% of cases should be determined in 16 weeks after the start date of the appeal. For enforcement appeals, the target was that 80% of enforcement appeals should be determined within 32 weeks after the start date. These targets were more than met, and the Inspectorate's performance was a substantial improvement on the previous year.

81. So far as appeals decided after a *hearing* by Inspectors are concerned, the target for planning appeals was that by the end of the year 50% of such appeals should be determined within 30 weeks after the start date. That target, which was amply met last year, was not met this year. Only 35% of appeals were determined within the relevant period. We understand the reason for this is that the Inspectorate was prioritising written representations cases. However, it is a matter for regret that the result was a material worsening in performance for hearing cases.

82. For enforcement cases decided by a hearing, the target was that 80% of enforcement cases should be determined within 33 weeks after the start date. 76% was achieved in 2007/08, compared to 71% in 2006/07.

83. For *inquiry* cases decided by Inspectors, the target for planning appeals was more than met, and the Inspectorate's performance was better than in the previous year. The target in relation to enforcement appeals was narrowly missed, but the Inspectorate's performance was better than in 2006/07.

84. The targets for the completion of examinations of Development Plan Documents were all more than met.

85. In Wales, finally, all targets were met, save for one, relating to the submission of reports on called-in applications and recovered appeals to the Welsh Assembly Government. The target was missed because one report was late.

Start dates

86. The start date is an important stage in the processing of an appeal. It is the date on which the Inspectorate formally acknowledges the appeal to have been lodged. The start date is important for a number of reasons, including the fact that as will be apparent from the preceding paragraphs, most of the timeliness targets set by Ministers relate back to the start date. In our 13th Report³³ we drew attention to delays in fixing the start date.

87. Those problems continued into the year 2007/08. By February 2008, there was a four to five week backlog in the registration of new appeals. Appellants were being sent a standard letter informing them of this. This was plainly a highly unsatisfactory situation. We raised the matter with the Inspectorate. We were told that the reasons for the delay in registering appeals included the high level of appeals being received by the Inspectorate, and the fact that about a third of appeals received were incomplete. We were assured that everything possible was being done to reduce the backlog.

88. At our annual meeting with the Chief Executive of the Planning Inspectorate in July 2008 we were told that the Inspectorate was aiming to register all correctly completed appeals within five days of their receipt, and that this was now being achieved. We think this is an appropriate

objective, and we **RECOMMEND** that it should be adopted by the Inspectorate as an internal target.

Overall

89. The previous paragraphs show that in 2007/08 the Inspectorate's performance in relation to the Ministerial timeliness targets was better than in the previous year, with the important exception of hearings cases.

90. During the past year we have raised two points relating to targets with the Inspectorate.

91. First, as we pointed out in our 13th Report³⁴, delivery of a decision within a specific time frame is not the only important consideration. There may in particular cases be reasons why the imposition of inquiry dates may cause unfairness or inefficiency. We therefore drew attention to the suggestion that where the main parties agree on a date for an inquiry which could lead to the decision being issued outside what would otherwise be the target date, the Inspectorate should not impose an earlier date. We are pleased to learn that it is now proposed that there should be "bespoke" timetables for major cases, which will allow a welcome flexibility.

92. Secondly, some of the current Ministerial targets require outcomes "by the end of the year." In other cases, the targets are to be applied to the relevant year as a whole. We find this a confusing and unsatisfactory situation. It is of itself unhelpful to have two different bases for the application of targets. Further, the meaning of "by the end of the year" is not clear in the

33 13th Report, paragraph 113, page 25

34 13th Report, paragraph 117, page 26

absence of explanation. We have been told that it means that the target is to be applied to March, being the last month in the financial year. However, it is in any case unsatisfactory to have a target that applies only to the last month in the year.

93. We have been told that the targets are to be revised. Because the proposed changes have arisen since the end of the Inspectorate's year 2007/08, we have dealt with them in more detail in Chapter 7 of this Report, under the heading "The Coming Year."
94. The proposed changes are to be monitored during the course of the year 2008/09. Whatever new targets are introduced, changes to the existing targets are needed, in our view. We **RECOMMEND** that the current Ministerial timeliness targets are simplified, and in particular that all targets which require compliance "by the end of the year" are replaced with targets compliance with which is measured over the year as a whole.

5. The Quality Assurance Unit

95. One area of concern to which we referred in our 13th Report was the performance of the Quality Assurance Unit.
96. We drew attention³⁵ to the low levels of satisfaction with the complaints process as reported in the CSS, and the fact that QAU was not complying with the Inspectorate's internal target for the provision of a full response to complaints. We recommended³⁶ that the Inspectorate should look for ways of ensuring that the target for response to complaints is met, including increasing the resources available to QAU. We suggested that a review of the complaints handling procedures in other organisations might help this process.
97. We are pleased to report that during 2007/08 much has been done to improve the performance of QAU. There has been a close examination of the role and functioning of QAU, starting with a review commissioned in June 2007 by the Director of Development Plans, Policy and Quality. As a result, a number of changes have been made.
98. To begin with, consideration has been given to ways in which it can be ensured that Inspectors provide a timely response to QAU where their comments on a complaint are requested. All Inspectors have been reminded of the role of QAU, and agreement has been reached on the time by which Inspectors should provide their comments.
99. Secondly, it has been decided that not all complaints about a decision letter need to be referred to the Inspector responsible. For example, simple typing errors can be acknowledged by QAU without reference back to the relevant Inspector.
100. Thirdly, steps have been taken to ensure that members of the public are adequately informed about the complaints process, and that QAU's communications with them are cogent and helpful. A new version of the Complaints Procedure leaflet has been produced, with content approved by the Panel. Senior members of QAU's staff review letters before they are sent out, to ensure that they are clear, and that they state what is being done to rectify any identified errors, and what steps are being taken to prevent recurrence.
101. As part of the work to improve QAU's performance, there has been liaison with outside bodies which receive complaints, for example the various Ombudsmen. This is in accordance with the recommendations in our 12th and 13th Reports.
102. A further helpful development has been organisational reform, which will concentrate responsibility for all types of complaints about the Inspectorate within QAU. Previously, although complaints about Inspector casework were dealt with by QAU, other complaints were dealt with elsewhere within the organisation.

35 13th Report, paragraphs 73, 80, and 114-116 (pages 18, 19, 25&26)

36 13th Report, paragraph 116, page 26

103. QAU's efforts to improve performance have already produced some positive results. The Inspectorate's internal target is that there should be a full response to 80% of complaints within three weeks of receipt. We set out below results over the past five years:

Speed of Response to Complaints					
(Target = 80% of replies sent within 3 weeks)					
Year	03/04	04/05	05/06	06/07	07/08
% In Target	84%	82%	71%	73%	78%

104. It can be seen from the table that the target was missed by a considerable margin in 2005/06 and 2006/07. The performance in 2007/08 of 78%, while still falling short of the target, was an improvement on the two previous years.

105. Universal satisfaction with any complaints procedure is unlikely to be attained, because complainants are by definition dissatisfied. However, the low levels of satisfaction with the Inspectorate's procedures which have been shown by the CSS, and the failure to fulfil timeliness targets for response to complaints, have been of considerable concern to the Panel, as well as to the Inspectorate itself. We think that much has been done and is being done to improve matters, and we will look for further evidence of progress.

6. Training

106. In the period covered by this Report, the Panel reviewed the training plans of the Inspectorate for Inspectors, Planning Officers and Administrative staff. We took into account the Inspectorate's Learning and Development Strategy and the observations concerning training contained in our 13th Report.
107. The Panel looked at a wide range of topics, including developments in the training of Planning Inspectors with regard to core skills, LDF issues, specialist topics and the use of external expertise. We also considered the training requirements of Non Salaried Inspectors.
108. We examined the criteria for selecting staff for training and how the perceived business needs of the Inspectorate were balanced with requirements of individual staff. We conclude that the balance between these two aspects is currently appropriate. However, there is a clear requirement to keep under review the ever changing training needs of staff at all levels.
109. A comprehensive review and report on induction training has been prepared to ensure that Inspectors are effectively provided with the skills they need, both general and specialist. We found the report impressive. Having regard to the ever changing requirements placed on the Inspectorate we consider that this matter should be kept under continuous review.
110. The 2008/9 Training Plan for Inspectors has been produced after taking into account views expressed in the annual appraisal process of individual staff and the opinions of stakeholders.
111. This plan is subject to quarterly review by the Director of Development Plans, Policy and Quality and Head of Profession. Additionally all training is evaluated (both immediately after the event and three or four months later) by the Learning and Development Unit attached to the Human Resources Division. Whilst we endorse this approach and encourage feedback, we observe that it is important to ensure that effective use is made of information received from participants and we will keep this area under review.
112. Training for Inspectors involved in LDF work comprised five half day courses in 2007. There will be a need for Inspectors to receive external tuition in topics such as development appraisal and work is in hand with the RTPI, RICS and other Professional Bodies to provide such tuition. The uncertainty of workflow in this area, with the possibility of a surge in the number of DPDs submitted for examination, makes training and resource needs hard to ascertain in advance. We will however continue to monitor the training of Inspectors in this important area.
113. Specialist training has been developed in a flexible manner including in-house tuition through the training of "champions" to instruct sub-groups, together with assistance from outside bodies such as CABE and the University of West of England. The need for training in a particular specialist area will of course vary from year to year. Nevertheless, we are satisfied that a measured and informed approach has been taken, with 10 topics identified in the 2007/8 programme. There have, reportedly in the past, been occasions where Inspectors who have been trained in a particular specialist area have

not been allocated relevant casework. It is, of course, important that this occurs if possible, so that the benefits of the training are not lost. However, we recognise that it is not always possible to achieve, because of the difficulties in predicting the nature and number of cases that will arise.

114. Continuing Professional Development (CPD) for Inspectors has a separate budget with sub-groups being allocated sums to accommodate requests for training that flow from the annual appraisal process, including the purchase of season tickets for RTPI events.
115. The allocation of funds and training specifically targeted at Planning Officers is in our view a positive and helpful development in improving quality, because Planning Officers play an important role in supporting Inspectors.
116. The training of trainers featured in the Panel's 13th Report and we note that since November 2006 all Senior Inspectors with training responsibilities undergo a training and facilitation course. Clearly the ability to ensure effective in-house training is crucial to the maintenance and improvement of quality and the Panel will keep this aspect of the training plan under review.
117. The skills audit referred to in our 13th Report³⁷ and prepared in 2005 proved a useful starting point in creating a comprehensive training plan, particularly for administrative staff. However, as acknowledged by the Inspectorate, such audits can become quickly outdated and currently there are no plans to update it.
118. Generally, the period covered by this report has seen positive progress in the quality of the training programme and its integration at all levels throughout the Inspectorate. The Panel will continue to monitor training and its ability to respond to changing requirements as it affects quality and performance

37 13th Report, paragraph 125, page 27

7. Overall Conclusions and List of Recommendations

Conclusions

119. Our overall conclusions are as follows:
- (a) The Inspectorate has met both the quantitative and qualitative components of the Ministerial Quality Target.
 - (b) Some of the concerns expressed in our last Report about the quality of Inspectors' casework have been met. We think there has probably been an improvement in the quality of casework over the past year, although concerns remain, given the relatively high proportion of significant justified complaints.
 - (c) We are, as in our last Report, pleased that the level of justified administrative complaints remains lower than in 2004/05 and 2005/06. However, we have identified specific areas where stakeholders express concerns about the Inspectorate's administrative procedures.
 - (d) We are pleased to note that in 2007/08 the Inspectorate met most of the Ministerial timeliness targets, with the important exception of planning appeals decided after a hearing. We are pleased to note that appeals are now once more being registered promptly, and have made a recommendation in that regard. We have also made a recommendation about future timeliness targets.
 - (e) We are pleased that much work has been done and is continuing, to improve the performance of QAU.
120. We set out below our recommendations. As in our last Report, the recommendations do not purport to cover all areas, but relate to specific points where we have established scope for action by the Inspectorate or Ministers where appropriate.

List of recommendations

121. Paragraph 31 –The Panel should be involved in the production of the criteria that the Inspectorate will use in the determination of appeals, and we should see any complaints made to the Inspectorate about its decisions as to method of determination.
122. Paragraph 40 –The Inspectorate should draw monitoring observations made by the Panel to the attention of Inspectors and bear them in mind when preparing training and briefing materials.
123. Paragraph 55 –The Customer Satisfaction Survey for 2008 should provide statistical information specific to Wales.
124. Paragraph 70 –The Secretary of State and the Welsh Assembly Government should promote legislation to include costs decisions in the scope of the slip rule.
125. Paragraph 75- The Inspectorate should continue closely to monitor the quality of Inspectors' reports following examinations of Development Plan Documents.
126. Paragraph 88 –The Inspectorate should adopt as an internal target the objective that all correctly completed appeals should be registered within five days of receipt.
127. Paragraph 94 -The current Ministerial targets should be simplified, and all targets which require compliance "by the end of the year" should be replaced with targets compliance with which is measured over the year as a whole.

128. At Annexe D to this Report is the Inspectorate's response to the recommendations in our 13th Report, and its view on current progress in implementing those recommendations. We have referred to most of the recommendations and the action taken by the Inspectorate, in the body of this Report. It will be apparent that we consider much has been done to follow up our recommendations, and we are generally pleased with progress.

The coming year

129. In the coming year, we shall continue carefully to monitor the quality of the Inspectorate's work.

Development Plan Documents

130. We will look at the continuing efforts of the Inspectorate to maintain and improve the quality of reports relating to Development Plan Documents.

131. There have been recent changes to the development plan system since the end of the year covered in this Report. Following public consultation, a new PPS 12 was published on 4th June 2008, together with regulations to amend the Town and Country Planning (Local Development) (England) Regulations 2004. An electronic manual has been produced to assist those involved in DPD preparation.

132. An important change to the process for producing DPDs has been made in the new regulations, in that one of the three consultation

steps formerly required has now been removed, while the draft DPD must be published for consultation before it is submitted to the Inspectorate for examination.

133. This change may well make the overall process simpler and quicker. Further, it should make it easier for a Local Planning Authority to rectify a DPD if, having considered representations, it decides the DPD is flawed. However, removal of a consultation stage makes it all the more important that the examination stage by an Inspector is robust enough to expose any flaws in the DPD, including lack of a sufficient evidence base.

134. A further recent event relating to the development plan process was the decision of the Court of Appeal in Blyth Valley Borough Council v Persimmon Homes (North East) Limited and Others.³⁸ This is the first case in which a DPD, or part of a DPD, has been quashed by the courts. The Court of Appeal found that the Inspector failed to take account of the absence of a robust and credible evidence base for affordable housing policies. The case is of general importance, also, because the Court stated that it is wrong to approach the issue of soundness on the basis that a policy should be presumed to be sound unless evidence was produced demonstrating the contrary. We will monitor how the Inspectorate responds to the judgement and what measures are put in place to ensure that Inspector scrutiny of DPDs remains rigorous as well as expeditious.

38 [2008] EWCA Civ 861, judgement handed down on 29th July 2008

Targets

135. We will also take an interest in the new proposals for targets for the Inspectorate. The Inspectorate's 2007/08 Annual Report and Accounts state³⁹ that a revised set of Departmental Strategic Objectives (DSOs) has been agreed with the Treasury, against which the Inspectorate's performance will be monitored during the year 2008/09. Ministers will be advised on the extent to which the Inspectorate will be likely to meet the DSO targets with effect from 1st April 2009.

136. The DSO targets are as follows:

- (a) To issue the decision/report on all planning casework that has a bespoke timetable in accordance with that timetable;
- (b) Over the year as a whole, to issue the decision/report on 80% of other planning casework within six months after the start date;
- (c) Over the year as a whole, to decide 80% of planning casework handled by the new "fast track" procedures within 8 weeks of the start date.

These targets appear to meet the concerns we have expressed in this Report about the current targets.

Other areas of interest

137. Finally, as part of our future work, we expect to examine the new Fast Track Householder Appeal pilot and, subject to the progress of the Planning Bill, the Inspectorate's early decisions on mode of determination for appeals.

Annex A

Terms of Reference

1. To advise the Secretary of State for Communities and Local Government and the First Minister of the Welsh Assembly Government on the maintenance and enhancement of professional standards within the Planning Inspectorate and in particular:
 - (i) to prepare an annual report to the Secretary of State and the First Minister on professional quality standards within the Inspectorate;
 - (ii) to indicate in the annual report whether the Inspectorate's professional quality assurance, quality control and training systems are in place and functioning properly, taking account of any general improvements in service quality including improvements arising out of the Inspectorate's consideration of, and response to, individual complaints, High Court Challenges and Parliamentary and Health Service Ombudsman cases;
 - (iii) to undertake specific one-off studies relevant to the Panel's quality assurance role, as requested by the Secretary of State or the First Minister.
2. The role of the Panel is advisory only. But to enable them to advise the Secretary of State and the First Minister effectively about matters affecting the maintenance of quality within the Inspectorate, Panel members will have access to Inspectors' reports and decisions and to other relevant material associated with resolved complaints, High Court Challenges or Parliamentary and Health Service Ombudsman cases. They may also ask to see other papers prepared by the Inspectorate which have a bearing on quality assurance, quality control and training systems. Subject to the agreement of the Chief Executive, Panel members shall have full access to any inquiry, hearing or meeting of the Inspectorate where this would assist their work, always providing this is not opposed by any party to the appeal, hearing or inquiry.
3. Panel members may not concern themselves with the merits of individual cases or decisions, nor may they comment on the quality of an individual Inspector's work. The information obtained through their observation of the work of the Inspectorate may be used only to inform consideration of broad issues of quality. Panel members may draw on any of the material to which they have access in drawing up their annual report. The Panel will at all times be expected to exercise care in the use it makes of any case specific information so as not to prejudice the outcome of any judicial or quasi-judicial process.
4. For administrative convenience, it will be open to the Panel to make proposals for quality improvements direct to the Chief Executive for consideration in advance of its annual report to the Secretary of State and First Minister. Where such improvements are agreed and implemented, they should be recorded in the report.
5. The Panel will need to be aware of the role of the Administrative Justice and Tribunal Council in overseeing the openness, fairness and impartiality of the inquiry procedures and should not duplicate the work of the Council in those respects.

Working Methods

Annex B

Panel Members

Panel members are appointed by the Secretary of State for Communities and Local Government and the First Minister in Wales. Appointment is on a fee-paid basis. The Panel now comprises eight members, including the Chairperson.

Timothy Corner, QC (Chairperson) was called to the Bar in 1981 and practises mainly in planning and other areas of public law. He sits as a Deputy High Court Judge, and is Chairman of the Planning and Environment Bar Association, a Master of the Bench of Gray's Inn and a member of the Oxford Joint Planning Law Conference Committee.

Robin Dahlberg has worked for many years at Board Member, Chief Executive and Managing Director level in organisations in the private, public and volunteer sectors. He was Vice Chair of a 35 year old community organisation specialising in planning matters in the Waterloo area of the London Borough of Lambeth. He is currently the Vice Chair of the Security Industry Authority and well as a Board Member of the Health and Safety Executive and the Local Better Regulation Office.

Pip David is a former Director of Pilkington Tiles with experience in personnel, pensions and employment.

Richard Harwood was called to the bar in 1993 and specialises in planning and environmental law. He was a Councillor for the London Borough of Merton from 1998 to 2006. He is a member of the Planning and Environment Bar Association committee and a Fellow of the Society for Advanced Legal Studies. He is case editor of the Journal of Planning and Environment Law.

Norma Huddy is a Director of Policy Dimensions Ltd and Governor of Design Dimension. She has 37 years of experience in business, five years in the public sector and her considerable voluntary sector experience includes an appointment to the Women's National Commission and National President of

Business & Professional Women UK Ltd. She was the former Head of Government and External Affairs for AstraZeneca UK.

Jeff Penfold has over 25 years experience as a Chief Officer/Director within local government with strategic and operational responsibility for the development, housing, and protection of the environment. For several years he served as Director for a shire district council with management responsibilities that included development control and planning services, the strategic approach to housing provision, property management and environment. He now serves as an interim manager for a wide range of public sector clients.

Anthony Prior is a chartered surveyor and former senior civil servant. Until March 2001, he held a variety of director-level posts with the Valuation Office Agency. His responsibilities there included the development of the Agency's customer service programme, introducing new quality control and risk management systems and change management. He is a fellow of the Royal Institution of Chartered Surveyors, Chairman of Almshouse Trustees and advisor to The European Group of Valuers on professional standards.

Andrew Warner has 35 years experience in the planning and development field. He qualified as a Chartered Surveyor in 1972, and has a postgraduate planning diploma. He is a consultant of Dalton Warner Davis which is a specialist planning and surveying consultancy. He acts for local authorities and commercial/private clients. He is Chairman of the Royal Institution of Chartered Surveyors Planning and Environmental Policy Panel and has been on various steering groups and sounding boards for ODPM (now DCLG).

Annex C

Memorandum of Understanding Covering Working Relationships Between Planning Inspectorate and APOS

Introduction

1. The Advisory Panel on Standards (APOS/"the Panel") is an independent body whose purpose is to advise the Secretary of State for the Department for Communities and Local Government and the First Minister of the National Assembly for Wales "on the maintenance and enhancement of professional standards in the Planning Inspectorate...".
2. The purpose of this memorandum of understanding is to ensure, that the relationship between the Inspectorate and the Panel is transparent and that the Panel provides an effective and independent external check on the Inspectorate.

Working relationships

3. The Inspectorate recognises APOS as an independent body of expertise that is accountable to Ministers. It recognises that it would not be appropriate to attempt to influence any of the Panel's considerations or conclusions.
4. The working relationship should be one of constructive co-operation with a willingness on the part of both parties to share all relevant information promptly whilst recognising that they share the common objective of resolving problems that may affect the quality of the Inspectorate's work.
5. There will be an agreed timetable for the provision of all regular information requirements and reports, together with agreed time targets for their provision. Ad hoc requests for written comments, information, documents will normally be met within 20 working days, unless

otherwise agreed by both parties. Requests for written comments, information, documents and so on, should be sent through identified liaison officers/secretariats.

6. The Inspectorate will identify for Panel members the appropriate people to talk to about relevant quality issues.
7. Annually, normally prior to finalisation of its annual report:-
 - (a) the Panel will meet the Inspectorate's Chief Executive. A record will be made by APOS's secretariat of what was discussed and the proposed action recorded; and
 - (b) APOS will draw up a work programme and submit it to the Inspectorate for information and comment.
8. In planning for and carrying out the annual customer survey the Inspectorate will provide APOS with an adequate opportunity to comment on the draft work programme survey and will inform APOS of the results.

Sponsorship responsibility, including the provision of administrative, financial and secretariat services

9. Since its inception, sponsorship responsibility, including the provision of administrative, financial and secretariat services for the Panel, have been provided by what is now the Planning Division of the Department for Communities and Local Government (DCLG). Following organisational changes in DCLG it has been decided by DCLG that such matters, including the provision of the secretariat, should reside with the Inspectorate.

10. This arrangement could give rise to questions about the Panel's independence. It is recognised by both the Inspectorate and the Panel that it is essential to ensure that the secretariat and Panel are able to operate without compromise to the Panel's independence.

Confidentiality

11. The considerations of the Panel are confidential and are not, without the Chairperson's authorisation, to be revealed to Inspectorate staff/non-Executive Directors outside the APOS secretariat.

The Panel

12. Members of the Panel are appointed by the relevant Ministers in accordance with:
- the Code of Practice for Ministerial Appointments to Public Bodies published by the Office of the Commissioner for Public Appointments; and
 - the Cabinet Office Guide to Making and Managing Public Appointments.

13. The role of the secretariat so far as appointments are concerned is limited to making appropriate administrative arrangements relating to the appointments process. No member of the Inspectorate's staff or non-Executive Directors will take part in any stages of the selection.

14. The performance of Members of the Panel will be assessed by the Chairperson. The performance of the Chairperson will be assessed by the DCLG Chief Planner.

Issues not covered by this memorandum

15. Issues arising outside this memorandum of understanding will be discussed between the Inspectorate's Chief Executive and the Panel Chairperson. If necessary, appropriate amendments will be made.

Katrine Sporle
Planning Inspectorate
2 October 2006

Tim Corner
Advisory Panel on Standards
15 January 2007

Annex D

Response to Recommendations

Recommendation	Action By Planning Inspectorate
<p>1. Paragraph 20 - Successful complaints and legal challenges to development plan documents in this area should be taken into account in deciding whether the Inspectorate's numerical target has been met where the complaints relate to the work of the Inspectorate.</p>	<p>Justified complaints and successful challenges are included when measuring performance against the Quality Target.</p>
<p>2. Paragraph 24 - A Ministerial Quality Target for administrative errors should be set to include justified administrative complaints, decisions quashed by the High Court because of administrative error and successful complaints to the Parliamentary Ombudsman relating to administrative errors.</p>	<p>An internal quality target for administration of appeals has been agreed and introduced from 28 April 2008. This incorporates a more robust process of recording complaints made about the administrative process of appeals handling, ensuring that staff within each branch of the Planning Inspectorate are responsible for investigating and recording complaints.</p>
<p>3. Paragraph 56 - The leaflet on complaints should be amended to warn parties that the slip rule must be invoked within the High Court Challenge period.</p>	<p>A revised version of the leaflet has been approved by APOS and published by the Planning Inspectorate.</p>
<p>4. Paragraph 56 - The usefulness of the Slip Rule and the limitations on its operation should be publicised more widely.</p>	<p>Changes made to complaints leaflet to include information on the Slip Rule. Revised version of leaflet approved by APOS.</p>
<p>5. Paragraph 57 - Clarification should be sought as to whether the slip rule can be used to correct costs decisions and appeal decisions under the Advertisement Regulations; if not, appropriate amending legislation should be sought to enable the rule to be applied.</p>	<p>It has been confirmed that advertisement appeals are among the types of appeal covered by the slip rule, but costs decisions are dealt with under separate legislation.</p>

6. Paragraph 65 - Consideration should be given to providing Inspectors with more guidance on the matters listed in paragraph 64 of 2006/07 report:	
(a) Inspectors should deal fully with all the main issues in an appeal, even if they have found that a particular ground is decisive;	Part 1 of the induction training manual advises that the reasoning in decisions should be structured around main issues and that a conclusion should be reached on each main issue. Failure to deal fully with a main issue would be picked up as a fault when reading the work of inspectors in training. Inspectors have been reminded in the Head of Profession Newsletter of the current advice on reasoning.
(b) In a number of cases the application of Green Belt policy has been poorly reasoned;	The training material on Green Belts has been revised within the past year to better reflect national planning policy and case law, and the topic is covered thoroughly during Part 2 of the induction training course. Green Belt decisions submitted by inspectors in training are read until they have demonstrated competence in dealing with this level of casework. Following recent High Court judgements, advice to Inspectors on Green Belts is currently being revised.
(c) There may be benefit in reviving the practice of supplying Inspectors with previous decisions on similar cases in the immediate vicinity;	The suggestion that Inspectors be supplied with copies of previous decisions on similar cases in the immediate vicinity has been noted. In our view it is for the parties to an appeal to present material that they wish the Inspector to take into account. But it is accepted that this does not always occur.
(d) Inspectors should ensure that the notes they make are as near to contemporaneous as possible, including matters agreed at site visits;	Inspectors are advised during induction training to ensure that notes are as contemporaneous as possible.
(e) Whilst a rare occurrence, it is important that Inspectors do not enter onto unoccupied property in the vicinity of an appeal site, without the consent of the owner.	The Part 1 training manual advises that inspectors should not enter onto private land during unaccompanied site visits. While it is generally understood that this advice also applies to accompanied site visits where the owner of the land has not given consent, we will revise the manual to make this explicit.

<p>7. Paragraph 89 – the reintroduction of random monitoring of Inspectors’ decisions and reports should be considered.</p>	<p>A reading unit staffed by administrative staff has been set up. It is currently staffed by an experienced HEO and 2 EOs who are trained to read Inspectors’ decisions.</p>
<p>8. Paragraph 97 - All appeal forms should require appellants to give a time estimate of likely length of the inquiry or hearing.</p>	<p>Included in February 2008 revision of appeal form.</p>
<p>9. Paragraph 116 – the Inspectorate should look for ways of ensuring that QAU’s targets for timely response to complaints are met, including increasing the resources available to QAU.</p>	<p>This was the subject of the Planning Inspectorate’s internal examination of QAU working practices and we introduced new procedures to ensure targets were met (which they now are). The need for further staff will be regularly reviewed in relation to targets and workloads.</p>
<p>10. Paragraph 123 - Training in specialist topics should be carefully monitored.</p>	<p>All training is evaluated for effectiveness and fit, both at an individual and corporate level. We recognise the need to monitor closely when new training methods are used, and this forms part of our Learning and Development Strategy.</p>
<p>11. Paragraph 138 - Either a timetable should be set for the publication of the Inspectorate’s Newsletter or the date the next edition will be available should be included in the current edition.</p>	<p>Indication of when next issue will be published now included (e.g. “early March”). Inclusion of actual date restricts the ability to respond to events at short notice.</p>

Annex E

Stakeholder Organisations

Panel Members have spoken to individuals and organisations in order to gain direct insight into the views of interested persons. These opportunities can arise at meetings organised directly on behalf of the Panel. Further, the Inspectorate organises its own series of meetings with stakeholders, and we have attended a number of those. Organisations whose representatives we met during the period of this Report, either at meetings organised by the Panel or at Inspectorate stakeholder meetings, are listed below;

Legal Organisations

The Council on Tribunals
 Planning and Environment Bar Association
 Law Society

Development Community

British Property Federation
 County Land and Business Owners Association:
 British Retail Consortium:
 British Wind Energy Association
 House Builders Federation and representatives of a major house building company

Interest Groups

Royal Society for the Protection of Birds
 Cyclists Touring Club
 Civic Trust
 British Horse Society
 Ramblers Association
 Campaign for Real Ale
 Land Access and Recreation Association
 Trail Riders Fellowship
 Byways and Bridleways Trust
 Friends of the Earth

Professional Bodies

Royal Town Planning Institute
 Prospect (Inspectors' Trade Union)

Regional Development Agencies

East Midlands DA
 South West RDA
 Yorkshire Forward
 Advantage West Midlands
 North East Assembly
 London DA
 South East DA
 East of England DA
 One North East

Government Offices

GO West Midlands
 GO East
 GO North West
 GO East Midlands
 GO South East
 GO South West
 GO North East
 GO Yorkshire and Humberside

Regional Assemblies

North West RA
 South East RA
 West Midlands RA
 West Midlands RA
 South East RA
 Greater London Authority
 Greater London Authority
 Yorkshire & Humberside Assembly

