Haringey Council

Regulatory Committee

THURSDAY, 21ST MAY, 2015 at 7.00 pm HRS - CIVIC CENTRE, HIGH ROAD, WOOD GREEN, N22 8LE.

MEMBERS: To be confirmed at Annual Council on 14 May

AGENDA

1. FILMING AT MEETINGS

Please note this meeting may be filmed or recorded by the Council for live or subsequent broadcast via the Council's internet site or by anyone attending the meeting using any communication method. Although we ask members of the public recording, filming or reporting on the meeting not to include the public seating areas, members of the public attending the meeting should be aware that we cannot guarantee that they will not be filmed or recorded by others attending the meeting. Members of the public participating in the meeting (e.g. making deputations, asking questions, making oral protests) should be aware that they are likely to be filmed, recorded or reported on. By entering the meeting room and using the public seating area, you are consenting to being filmed and to the possible use of those images and sound recordings.

The Chair of the meeting has the discretion to terminate or suspend filming or recording, if in his or her opinion continuation of the filming, recording or reporting would disrupt or prejudice the proceedings, infringe the rights of any individual, or may lead to the breach of a legal obligation by the Council.

2. APOLOGIES FOR ABSENCE

3. URGENT BUSINESS

The Chair will consider the admission of any late items of urgent business. Late items will be dealt with under the agenda item where they appear. New items will be dealt with at item 8 below.

4. DECLARATIONS OF INTEREST

A member with a disclosable pecuniary interest or a prejudicial interest in a matter who attends a meeting of the authority at which the matter is considered:
(i) must disclose the interest at the start of the meeting or when the interest becomes apparent, and
(ii) may not participate in any discussion or vote on the matter and must withdraw from the meeting room.

A member who discloses at a meeting a disclosable pecuniary interest which is not registered in the Register of Members' Interests or the subject of a pending notification must notify the Monitoring Officer of the interest within 28 days of the disclosure.

Disclosable pecuniary interests, personal interests and prejudicial interests are defined at Paragraphs 5-7 and Appendix A of the Members' Code of Conduct

5. MINUTES (PAGES 1 - 12)

To approve the minutes of the meeting held on 3 March.

6. ESTABLISHMENT OF PLANNING AND LICENSING SUB-COMMITTEES (PAGES 13 - 32)

To establish the Regulatory Committee sub-bodies for the new municipal year.

7. DEVELOPMENT MANAGEMENT AND PLANNING ENFORCEMENT WORK REPORT FOR 2014/15 (PAGES 33 - 50)

To advise on the performance of Development Management and Planning Enforcement for 2014/15, together with progress on the Development Management Improvement Plan as well as challenges faced by the service with regard to changes to national policy and resourcing and the service's response to these.

8. NEW ITEMS OF URGENT BUSINESS

To consider any new items of urgent business admitted under agenda item 2 above.

9. DATES OF FUTURE MEETINGS

- 21 September
- 7 December
- 15 February 2016

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Wednesday, 13 May 2015

Agenda Item 5

MINUTES OF THE REGULATORY COMMITTEE
TUESDAY, 3 MARCH 2015

Councillors Ahmet (Chair), Beacham, Bevan, Carroll, Carter, Mallett (Vice-Chair), Rice, Sahota and Stennett

Apologies Councillor Akwasi-Ayisi, Basu, Gunes and Patterson

MINUTE NO.	SUBJECT/DECISION	ACTION BY
REG154.	**APOLOGIES FOR ABSENCE** Apologies were received from Cllrs Beacham, Akwasi-Ayisi, Basu, Gunes, Patterson and Sahota.	
REG155.	**URGENT BUSINESS** No items of Urgent Business were tabled.	
REG156.	**DECLARATIONS OF INTEREST** No Declarations of Interest were tabled.	
REG157.	**MINUTES** Cllr Bevan requested an update in relation to the following actions from the minutes of meeting on 15th January: • The wording of the Haringey Civic Centre site plan be reviewed to avoid any presumption being implied in relation to the traveller's site. The AD Planning responded that the allocation for the Civic Centre site had been looked at and it explicitly excluded the traveller site in the red line boundary. The Planning service had checked the wording to make sure that was not an issue. • Officers to look into the potential of establishing policy position prohibiting advertising on BT phone boxes. The AD Planning responded that this issue was being examined. • Supporting the Highgate Neighbourhood Plan. The AD of Planning responded that Officers had subsequently met with the Highgate Area Forum and noted that the Forum had submitted a bid for new support funding for professional support which would be considered shortly. The AD of Planning fed back that, as per page 7 of the minutes, the Committee requested that consideration be given to including a link on the pre-application planning pages. It was noted that this was part of an ongoing piece of work with Communications and should be in place by 1st April. Clerk to remove the draft watermark from the minutes of the meeting on 15th January.	Clerk

	Regulatory Services Manager to raise an issue with Cllr McNamara around the Parks service, working with promoters to do more to prevent stalls promoting smoking or the sale of cigarettes at Finsbury Park during events. **RESOLVED** • That the minutes of the Regulatory Committee meetings held on the 15th January and 9th December be approved.	Daliah Barrett
REG158.	**DELIVERING QUALITY IN NEW DEVELOPMENT** The Chair elected to bring Forward Item 9 on the agenda, around Delivering Quality in New Developments. The Committee considered a report that was tabled by the AD for Planning as part of the agenda pack on the implementation of a new design review process. The Committee noted that Peter Studdart had been appointed as an independent Chair of the Quality Review Panel. Peter Studdart gave a presentation to the Committee, outlining how the design review process worked and how this would fit in to the other measures that had been put forward. The following points were raised during the presentation and the subsequent discussion: • The National Planning Policy Framework recommended that local planning authorities had local design review arrangements in place to ensure high standards of design. • A Quality Review Panel helped to demonstrate that the authority had high aspirations for design quality. The context was set by Haringey Quality Charter and Local Plan. Quality was particularly relevant given the high profile major developments around Tottenham. • Quality Review Panel would replace the existing Design Review Panel and moved to a more structured service. • Chair appointed, but 12-15 panel members were sought. • Design review process aimed for one full day meeting per month from April and is funded by the developer. 4-5 Panel members chosen per meeting which ensured an appropriate range of skills. • The review process would involve a site visit. • Process should speed up the planning process if done well, reduced risks and costs to the developer and identified contentious issues early on in the process. • Process provided access to independent expert advice and guidance, showed that Haringey was serious about securing high quality design and backed up officers when poor schemes were recommended for refusal. • It was noted that the closing date for applications to the Panel was 13th March. Panel appointed and provisional meeting dates set from April for coming year. Peter Studdart agreed to give an annual report back on progress to Regulatory Committee.	Peter Studdart

- The AD for Planning commented that the design review process was estimated as costing around £3100 and £1500 for a design review meeting, compared to around £8000 for a CABE design review meeting. The operating costs were modelled to be of no cost to the public purse.
- In response to a question around where the Quality Review Panel sat in relation to pre-planning meetings, officers advised that the two processes could work alongside each other.
- Confirmation was given that it would be a judgement call from officers as to which schemes were brought before the Quality Review Panel. It was noted that they would tend to be the larger schemes or the more contentious cases.
- Confirmation was also given that it was envisaged that the Panel would be made up of a range of skilled expertise such as architects, engineers, heritage advisors etc. In order to provide a broad range of expertise to reviewed schemes.
- The AD for Planning noted that he would not expect Peter Studdart to attend Planning Committee. Instead, it would be the role of officers to act as a conduit between the Quality Review Panel and Planning Committee.
- Advertisements for the Panel had been placed in specialist publications and promoted through existing channels and contacts for people that had the requisite the range of skills and were able to speak with authority on design. Some local membership would be desirable but not exclusively.

RESOLVED

- That the report, and the steps being taken to improve design quality in the borough, be noted.

REG159. PADDY POWER APPEAL HEARING

The Committee considered a report from the Paddy Power appeal hearing which was held at Highbury Magistrates Court over two days in November 2014. The following points were raised during the discussion of the report:

- The Committee noted that Paddy Power won the appeal hearing but that the Council was not made liable for court costs. The Regulatory Services Manager commented that the Council's case was predicated on arguing that crime and disorder in the area caused by the customers of the existing betting shops was sufficient of a link to gambling and that there was clear evidence that the level of disorder was above the threshold of being a mere nuisance. The Council argued that there were no conditions that could be added to the licence to minimise the risk of further crime and disorder.
- The District Judge noted that the local authority had a duty to aim to permit such applications and that she was satisfied that the evidence before her showed no connection between acts of crime and disorder in the area and gambling.

	• The District Judge also commented that the conditions on the licence proposed before the first hearing was sufficient and should have been added to the Licence at the time by the Licensing Committee. Consequently the Licence was awarded and the list of conditions was added to the Licence. • During the costs hearing, Paddy Power's QC noted that one of the Licensing Committee Members approached him and expressed an opinion that the Council should not have refused the Licence application. It was noted that Members should be aware that such comments can be mentioned in court and undermined the Council's case in apportioning costs. • Confirmation was given that there would be no appeal on the award of costs. • In response to a question on what grounds would the Council bring a similar case to court, officers advised that the Council's case hinged on the witnesses convincing the Judge that the anti-social behaviour caused by patrons of the existing betting shops was sufficient to refuse the licence on the grounds of crime and disorder. Officers also advised that similar cases in other boroughs had gone against the local authority, and in a number of cases had resulted in the betting shop company being able to also claim substantial costs. • The Committee was advised that Police had not given evidence in support of the case and that the reason why was because crime statistics tended to be quite low around betting shops, especially in comparison to some other high street premises e.g. McDonalds. • The AD Planning noted the Government had been consulting on whether betting shops should be given a different licensing classification of *sui generis* which would allow the planning authority to restrict instances of changes of use. As part of the Development Management Policies' DPD, the Council has suggested a policy approach on numbers and what the level of concentration should be. The Committee were encouraged to review the documents and feedback any comments to Planning. • The Committee noted that that planning permission was often seen as the best route to tackle the proliferation of betting shops, given the weakness of current gambling legislation. The Committee agreed to ask the Monitoring Officer to produce guidance for Members in light the instance of a member of the Planning Committee giving his personal opinion to Paddy Power's barrister and undermining the Council's case.	Chair/Clerk
REG160.	**REVIEW OF FEES AND CHARGES 2015-16 - LICENCES** A report was tabled by the Head of Finance – Accounting & Control, outlining the annual proposed increase to a number of licences that fell under the authority of Regulatory Committee. Cabinet had already met on the 10th February to agree the fees & charges that fell within its remit. The Committee noted that the report proposed 2.3% uplift across the board, in line with inflation (subject to a degree of rounding up or down to	

the nearest pound in some instances).

The following points were raised during the discussion of the report:

- A query was raised about the fact that the 2.3% increase resulted in a number of charges that were rounded to nearest few pence, and that the charges should be all rounded to the nearest pound instead. Officers responded that with inflation being low, the proposals reflected a desire to increase each of the fees and charges. In addition, officers advised that the Council is trying to move to a less cash dependant system of collecting income and so the amount should not matter as long as it's rounded to the nearest 1 pence.
- Officers also noted that the danger with rounding up to the nearest pound is that can, in some instances, be a very large percentage increase, which would be difficult to justify on inflationary grounds. All of the fees and charges should be aimed at a level that sought to recover costs.
- Cllr Bevan moved that the Committee amend the fees and charges to the nearest Pound, apart from where the charges were set at the maximum by the Government. The Principal Lawyer to the Committee responded that the level of fees needed to be set at this Committee meeting and that if rounded to nearest Pound, either up or down, it would create an element of uncertainty. The Committee needed to be quite clear as to what the figures were. Cllr Carter seconded the motion. The Principal Lawyer to the Committee agreed that a resolution could be taken subject to her previous advice. The chair suggested that the Committee voted on the proposed fees and charges as set out in the tabled report and that if those were rejected that the committee would move to Cllr Bevan's resolution. The Committee approved the proposed fees and charges as set out in the report by 7 votes to 2.

RESOLVED

- That the proposed increase to the Council's licensing fees and charges, as set out in the appendix of the tabled report be approved with effect from 1st April 2015, subject to an Equalities Impact Assessment being undertaken, as set out in Paragraph 7 of the report, with any subsequent changes then required then being delegated to the Assistant Director for Environmental Services and Community Safety.

REG161. CONSULTATION ON HARINGEY'S DRAFT HOUSING STRATEGY 2015-2020

The Committee considered a report seeking views and recommendations on the proposed draft Housing Strategy; these comments were to be fed into a report to Cabinet. Cabinet would then consider the recommendations as part of the draft report before it was sent out for public consultation. The Committee noted that there was an addendum tabled to this report, as the document was still being developed and amendments had been made since the agenda pack for

this meeting was distributed. The addendum report outlined what those changes were. There were no significant changes to the recommendations made in the report and most changes were implemented to make the document easier to understand.

The Committee noted that the draft strategy would go to Cabinet on the 17th March and that Cabinet would then give approval to go out to public consultation for six weeks. The Committee further noted that the consultation would begin following the conclusion of the Purdah period, and the result of the General Election on the 7th May. A clear result in the election would enable the consultation to be sent out on the 11th May for six weeks. However, in the event of a hung parliament and a delay in forming a government then Purdah would be extended and the consultation would be delayed. The intention was to take the final strategy to Cabinet with a recommendation to approve the strategy to Full Council in July, but a significant delay in the outcome of the election may result in this being delayed until September.

The following points were raised during the discussion of the report:

- The committee noted a significant reduction, across neighbouring boroughs, in the numbers affordable homes being built given the large reduction in government subsidy. Michael Kelleher agreed to circulate the figures of the number of affordable homes being built in Haringey and neighbouring boroughs, to the Committee.
- The Committee asked for further details on the approach being adopted in the strategy. The Chair clarified that in its current format the document had a number of over-arching strategy points and that some of the detail was still to be developed. Officers confirmed that they were seeking the Committee's recommendations on the over-arching strategy.
- The Committee expressed an interest in understanding the delivery model in more detail when this was better understood. Officers responded that the various delivery plans and sub-strategies would be developed over a period a time and that some of these in fact already exist, such as the Housing Investment and Estate Renewal Strategy. Michael Kelleher agreed to send round an outline of the various sub-strategies that existed to the Committee. It was agreed that the report should more clearly outline the fact that there are a number of sub strategies and delivery plans sitting beneath the over-arching Housing Strategy. — Michael Kelleher

The Chair welcomed Cllr Strickland, Cabinet member for Housing and Regeneration to the meeting.

The following further points were raised during the discussion of the report:

- Cllr Bevan raised concerns with the commitment on pp.34 to increase the PRS stock, particularly in the east of the borough. The Cabinet Member for Housing and Regeneration responded that this was linked to raising quality standards. It was noted that there was firm

demand for private sector housing in the area and the Council was keen to insert purpose built good quality private rented sector accommodation into that market.

- Cllr Bevan also raised concerns with the commitment on pp.35, that the Council needed to provide 40% on-site affordable housing but neglected to mention targets for sites of less than 10 units. The Cabinet Member for Housing and Regeneration responded that this was more a matter for Planning policy as appose to a Housing Strategy.
- There was no definition of what was an affordable rent or what a social rent was and the terms seem to be used interchangeably. The Cabinet Member for Housing and Regeneration responded that there would be a mix of rents across the borough and that the provision to charge 80% of market rent for social housing was designed to cross subsidise the funding for new homes.
- Cllr Bevan raised concerns with the policy of calculating the number of units replaced in terms of habitable rooms. Cllr Bevan requested that the report advocated replacing units like for like when estates were regenerated. The Cabinet Member for Housing and Regeneration responded that this commitment was given for the Love Lane estate, where there was sufficient space to redevelop the site on a like for like basis. However, it was noted that on some other estates affordable housing would be re-provided on the basis of habitable rooms, as a significant proportion of properties on say, the Northumberland Park estate, were overcrowded and it may be more effective to build fewer properties with more rooms. Areas where social housing was very dense would be more difficult.
- Cllr Bevan supported the report's assessment that design plays a central role in driving up house quality and requested that this was highlighted further in the report.
- Cllr Bevan expressed concern with residents who benefitted from social housing but also owned property abroad and requested that the report explicitly noted that people who live aboard are not entitled to social housing. The Cabinet Member for Housing and Regeneration agreed that this was an important point and noted that this provision would be outlined in one of the sub-documents.
- Cllr Bevan clarified that he was concerned with Council accommodation being replaced like for like, as appose to Council housing being replaced by a range of other social housing provision for example, through housing associations. The Cabinet Member for Housing and Regeneration responded that the December Cabinet report on the Love Lane Estate expressed a strong preference for rebuilding Council accommodation with Council accommodation, but that this was ultimately subject to financial considerations. The Cabinet Member for Housing and Regeneration noted that the Council was trying to be quite creative in terms of bringing in the money and also having a stake in the housing stock long term.
- The Chair asked for clarification on how Right to Buy schemes would have an impact on the proposed new homes. The Cabinet Member replied that the first batch of new homes were not protected from coming under the Right to Buy scheme but new build homes benefitted from a 'floor price' that protected the amount of money put

in for a certain number of years. In addition, stock built by the ALMO can be protected from Right to Buy.

- Cllr Mallet questioned how a reduction in the number of estates managed by more than one housing association would be achieved. The Cabinet Member for Housing and Regeneration responded that negotiations had been undertaken with the 6 major housing associations, who agreed to work together to tackle this issue.
- The Committee requested that the document elaborated on how the Council would encourage stock rationalisation between Registered Providers.
- The Chair questioned the use of the terminology of 'black and white' in the equalities section of the report and noted that a reference to numbers of BME's might be more helpful. Officers agreed to make changes to this section of the report. — Michael Kelleher
- Cllr Stennett raised the concerns around the fact that the Housing Strategy stated that, for schemes of 10 units or more, the requirement for affordable housing will be 40%, when the decision to reduce the threshold from 50% to 40% was still subject to consultation. The Assistant Director confirmed that the 40% threshold was laid out in the Planning Policy document which was subject to consultation and noted that there was an alignment issue as a consequence of the timing of the publication of the two reports. It was agreed that the draft Housing Strategy should note that this provision was "subject to consultation". — Michael Kelleher
- Cllr Stennett also noted that consultation document may want to outline more clearly that estate renewal may not necessarily result in properties being Council-run accommodation. The Cabinet Member for Housing and Regeneration agreed to review this section with Officers and see if changes needed to be made. — Cllr Stricklan d
- Michael Kelleher confirmed that the new affordable housing figures discussed earlier were a gross figure.
- Members asked for further clarification on how estate renewal would tackle issues of overcrowding particularly when reallocating on a habitable rooms basis. Officers confirmed that a holistic approach would need to be taken and that overall this would require not just analysing the number of rooms on an individual estate but also looking at the Housing Infill Programme and creating additional capacity on estates that can generate more units. Michael Kelleher noted that the number of habitable rooms offered should be looked at in terms of a minimum baseline guarantee.
- Cllr Rice asked whether the building of new accommodation based on a shared public/private sector funding would necessitate higher rents to cover the cost of the development. Officers responded that there is a possibility that some properties could be offered at higher rents in order to cross subsidize the scheme but, by building at scale and by adopting innovative funding models, it should certainly be possible to keep rents at current levels.
- Members raised concerns that the approach of allowing rents on smaller units to be set at up to 80% while limiting rents on larger properties at 45% will act as a disincentive to developers to deliver enough larger units and encourage them to focus on delivering smaller units. The Assistant Director of Planning commented that this

was covered by a planning policy position and the London Plan, as well as the Housing Strategy statement around developing an affordable mix and bedroom sizes. It was also noted that one of the benefits of adopting habitable rooms as a basis for re-provision was that it reduced the incentive to the developer on how the overall quantum of development was divided.

The Committee agreed that the above comments would be used as the basis for the Committee's recommendations to the Cabinet report.

The Cabinet Member for Housing and Regeneration commented that some workshops would likely be set up at a later date to go through the Housing Strategy in more detail.

RESOLVED

- That the draft Housing Strategy (Appendix A) be noted and the comments of the Committee to Officers, be reported to Cabinet at the meeting on 17th March.

- To recommend that Cabinet (subject to point 1 above) approve the attached draft housing strategy – with specific reference to the issues covered in paragraph 6.2 of the report – for a six week public consultation.

REG162. DEVELOPMENT MANAGEMENT AND PLANNING ENFORCEMENT WORK REPORT

The Committee considered a report which summarised performance around Development Management and Planning Enforcement for Quarter 3 and January 2015. An addendum report was also tabled summarising the enforcement action taken by Planning Enforcement in Quarter 3.

The AD for Planning noted that the report showed significant improvement in performance from a few years ago, particularly around speed of decisions being taken. A consistent level of performance on major applications and consistent levels of minor and household applications was also noted, against a back drop of rising application numbers. The AD for Planning advised that the appeal performance of the service has steadily improved, which showed an improvement in the quality of decisions taken.

A consistent level of pre-application proposals was noted. From April, the service would change to a paid service for householder pre-applications. A higher demand for the service was expected as a result but it was envisaged that the move to a paid model would also improve quality.

The Committee noted a continued increase in the number of Planning Enforcement enquiries. From 4th March, Planning Enforcement service

requests would be handled by Customer Services. 257 enforcement cases were reported in the last quarter, which was on target to be lower than in previous years. The AD for Planning advised that the table at section 6.8 of the report which showed major application performance was in error - Performance around notification as a result of people who make enforcement complaints, was not correctly recorded in terms of the target figure.

The AD for Planning also advised that the Planning Enforcement service was undergoing a reorganisation of its structure to explore how the service could more effectively respond to complaints

The following further points were raised during the discussion of the report:

- Further clarification was sought on the difference between appeals made following a decision of the Committee over those made by officers under delegated authority. Officers responded that a number of policies were in the process of being developed to improve performance in this area. From March 2013 to January 2015, 9 applications were refused by Planning Committee. 7 of these were against officer recommendations and 6 of these refusals have been appealed. The AD of Planning agreed to give the Committee a more detailed update on performance around Planning Enforcement appeals and the breakdown of officer vs. Member decisions, in the next performance report. — Stephen Kelly
- In response to a question on whether the Hollybank development in Muswell Hill had been appealed, the AD Planning responded that he was unsure but noted that this would be included in the performance figures for the next quarter.
- In response to issues raised by the Tottenham Conservation Society in a letter about delegated decisions made by Planning Officers, concerns were raised with erroneous decisions being made. The chair responded that she had discretionary powers to hear specific applications at Committee instead of the decision being taken by officers, and agreed that if there was a specific case to discuss then the applicant should speak to her directly.
- A broader point was noted about a significant number of Planning Officers being fairly new in post and perhaps not having much local knowledge and that pressure to meet deadlines and service standards was potentially having an impact on the quality of decisions. Officers responded that the challenge is one of speed over quality and that there was a thorough review process under way analysing the reasons behind cases where there had been a complaint about the decision taken by officers..
- Officers advised that a number of staff changes had an effect on enforcement performance in Quarter 3 and would continue to do so into Quarter 4.
- The AD of Planning acknowledged that there was a significant number of temporary staff within the Planning service due to high demand and the fact that it is a highly competitive market. The intension was to look at the offer for Planning Officers and that recruitment would take place shortly.

	• In response to query on the number of Planning Enforcement Officers, it was noted that the organisational structure had a full complement of 6 Planning Enforcement Officers, 2 of which are full time staff, 3 are agency and 1 post is becoming vacant. • The Committee requested that future reports were more consistent in the timescales used for performance measures. Officers responded that the government measured overall performance as a two year cumulative rolling average. It was noted that the Planning Enforcement suite of performance indicators was being reviewed and refreshed for future meetings. **RESOLVED** • That the report and accompanying addendum report on Quarter 3 performance be noted.	
REG163.	**DATES OF FUTURE MEETINGS** The chair commented that there was a number of Planning meetings coming up that month and requested that Members inform the respective Chief Whips if they were unable to attend a meeting so that replacements could be found.	
REG164.	**NEW ITEMS OF URGENT BUSINESS** No new items of Urgent Business were tabled.	

The meeting closed at 21.35 PM

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Chair

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Agenda Item 6

Haringey Council

Report for:	**Regulatory Committee 21 May 2015**	**Item Number:**	

Title:	**Establishment of Planning and Licensing Sub-Committees 2015/16**

Report Authorised by:	**Bernie Ryan, Assistant Director of Corporate Governance & Monitoring Officer**

Lead Officer:	**Clifford Hart, Democratic Services Manager, x2920**

Ward(s) affected: All	**Report for Key/Non Key Decisions:** **N/A**

1. Describe the issue under consideration

1.1 To establish for the 2015/16 municipal year the Planning Sub-Committee to conduct town planning and miscellaneous functions and two Licensing Sub-Committees to conduct both the statutory and non-statutory licensing functions of the Council as set out in Part Three, Section B of the Council's constitution which is attached as Appendix 3 to this report. Members are also asked to note the provisions for the appointment of substitutes.

2. Cabinet Member introduction

Not applicable.

3. Recommendations

3.1 To note the terms of reference of the Regulatory Committee as set out within the Council's Constitution attached as Appendix 1 and confirm the terms of reference of the Planning and Licensing Sub-Committees attached as Appendix 3 to this report.

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3.2 That Members agree the establishment of a Planning Sub-Committee and two Licensing Sub-Committees with the memberships set out in Appendix 2 to this report (to follow once membership is confirmed at Annual Council on 14 May).

3.3 That Members note the provisions in the Committee Procedure Rules, Part 4, Section B of the Constitution covering substitution arrangements for Committees and Sub-Committees. Additional delegations are made to the Democratic Services Manager (Appendix E Section 4 paragraph 1.5 of the Constitution), attached at Appendix 4ii to this report, for the appointment of a substitute Member for a Licensing Sub-Committee from among the Members of the Regulatory Committee when the permanent Sub-Committee Member is unable to attend for any reason.

3.4 To note that the Council Procedure Rules in Part 4 B of the Constitution do not apply to licensing hearings only in those areas where they conflict with the Local Licensing Procedure Rules and the relevant Acts and Regulations which take precedence.

4. Other options considered

Not applicable.

5. Background information

Regulatory Committee

5.1 The Full Council appoints the membership of the Regulatory Committee including its Chair and Vice-Chair. By law there must be at least 10 but no more than 15 appointed Members. The Committee can still meet and undertake its business with a quorum of 4 Members.

5.2 The Council can determine the terms of reference of the Committee. These are currently set out in Part 3 B of the Council's Constitution and attached as Appendix 1 to this report. Members are invited to note the Committee's terms of reference.

Establishing the Licensing Sub-Committees

5.3 The Regulatory Committee may establish Licensing Sub-Committees to conduct hearings. Although the membership for these has been reported to Annual Council, legally it is the Regulatory Committee that fixes these Sub-Committees' membership and confirms their terms of reference.

5.4 Last year there were 2 Licensing Sub-Committees to deal with contested applications. It is anticipated that the volume of applications will continue for the foreseeable future. It is recommended that 2 Licensing Sub-Committees be appointed and this should be sufficient. The appointed membership of the Sub-Committees is fixed by law at 3 Members. The Council's own Local Licensing

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Procedure Rules set the quorum for hearings at 3 Members since this promotes better decision-making.

5.5 The membership of the 2 Licensing Sub-Committees will be set out in Appendix 2 to this report, which will be circulated once the membership of the full Regulatory Committee is confirmed.

5.6 On occasion, an appointed Member of a Licensing Sub-Committee cannot take part in the decision on a particular case, for example, due to a conflict of interest or if the premises in question is located in the Member's own Ward. In such cases, and any other case where a Member is unexpectedly absent or seriously late, it will be necessary to appoint a substitute Member often at short notice. Any such substitution will be made in accordance with the provisions of Appendix E, Section 4, Paragraph 1.5(k) and 1.5(l) of the Constitution. Substitute Members would always be trained Members of the Regulatory Committee who were able to make themselves available.

5.7 Members of the Committee are asked to note the terms of reference of the Licensing Sub-Committees. These are set out in Part 3 B of the Constitution and attached as Appendix 3 to this report. Reports on matters of general concern and decisions on general procedural issues will come to the Regulatory Committee.

5.8 While there is no requirement in law for the statutory licensing committee (or its sub-committees) to reflect political balance, historically this has been done as a matter of good governance. There is no proposal to change this however sufficient members would need to be available to achieve this.

Establishing the Planning Sub-Committee

5.9 The Regulatory Committee may establish a Planning Sub-Committee to exercise town planning and miscellaneous functions and fix its membership and confirm its terms of reference as set out in appendix 3. In line with the last municipal year, it is recommended that one Planning Sub-Committee be established.

5.10 The membership of the Planning Sub-Committee must be constituted in accordance with the provisions of the Local Government and Housing Act 1989 and the Local Government (Committees and Political Groups) Regulations 1990 in terms of political balance. The proportionality split is as follows: Labour Councillors (48 Members) now constitute 84.2% of the available seats on the Council and Liberal Democrats Councillors (9 Members) occupy 15.79%. Where practicable, the allocation of seats on Committees should be in line with the proportion of seats on the Council held by the political groups. The rule about proportionate allocation of seats on bodies overall takes precedence over the rule about proportionate allocation on any individual body. The membership of the Planning Sub-Committee will be set out in Appendix 2 to this report, which will be circulated once the membership of the full Regulatory Committee is confirmed.

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5.11 The quorum for Planning Sub Committee meetings shall be in line with Part four section B of the Constitution in that no business shall be transacted unless a quarter of the whole number of voting Members are present.

6. Comments of the Chief Finance Officer and financial implications

6.1 The Chief Finance Officer confirms that there are no financial implications arising from the recommendations in this report.

7. Comments of Assistant Director of Corporate Governance

7.1 The Assistant Director of Corporate Governance has been consulted and approves the content of this report.

8. Equalities and Community Cohesion Comments

8.1 The Council has a public sector equality duty under S149 of the Equality Act 2010 to have due regard to need to:

- tackle discrimination and victimisation of persons that share the characteristics protected under S4 of the Act. These include the characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex (formerly gender) and sexual orientation;
- advance equality of opportunity between people who share those protected characteristics and people who do not;
- foster good relations between people who those characteristics and people who do not.

8.2 Policy and Equalities Team have been consulted in the preparation of this report and they comment that the proposals outlined in this report carry no apparent implications for the any aspect of duty outlined above.

9. Head of Procurement Comments

Not applicable.

10. Use of Appendices

10.1 Appendix 1 to this report is the terms of reference of the Regulatory Committee

10.2 Appendix 2 to this report is the proposed membership of the Planning Sub Committee and two Licensing Sub- Committees (**to follow**)

10.3 Appendix 3 to this report is the terms of reference of the Planning and Licensing Sub- Committees

Haringey Council

10.4 Appendix 4 to this report is the extracts from the Committee Procedure Rules and Scheme of Delegation to officers in respect of substitution arrangements.

11. Local Government (Access to Information) Act 1985

11.1 The following background papers were used in the preparation of this report:

(i) The Council's Constitution and (ii) Local Licensing Procedure rules.

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(b) Acting as the employing body for employees engaged in the working of the Trust at Alexandra Palace, and to be responsible for the setting of staffing policies, conditions of service and terms of employment of those employees.

(c) In relation to the Trust, being responsible for developing and monitoring the implementation of effective policies and practices to achieve equality of opportunity both for employment and service delivery.

7. The Regulatory Committee

The Regulatory Committee has functions either (1) as the statutory Licensing Committee of the Council under the Licensing Act 2003, which also exercises functions under the Gambling Act 2005, or (2) as a non-statutory Committee exercising other non-executive functions relating to Licensing, Town Planning and other regulatory matters generally. At the beginning, and at other appropriate stage(s) in each meeting, the Chair will make a short announcement indicating whether the Committee is operating in its capacity as "statutory Licensing Committee" or as a "non-statutory Committee".

Membership

The Regulatory Committee must have between 10 and 15 Members in order to comply with the legislation as statutory Licensing Committee.

Protocol

There is a Protocol outside this Constitution setting out how the Regulatory Committee is to operate. The Protocol shall be applied in a manner consistent with Committee Procedure Rules in Part 4 and the relevant Licensing Procedure Rules when the Committee is conducting a formal hearing. Any issue on procedure at the meeting shall be subject to the ruling of the Chair. The Protocol can be amended by the written agreement of the Leaders of the Political Groups on the Council.

(1) In its capacity as the statutory Licensing Committee the Committee has all the functions referred to it by law under the Licensing Act 2003 and the Gambling Act 2005. These include:

(a) To be responsible for monitoring the operation of the Acts licensable activities and gambling in the Borough;

(b) To establish the Licensing Sub-Committees and to agree the delegation of functions to the Sub-Committees and to officers;

(c) To receive reports on the matters in (a) above_and on the functions delegated to the Licensing Sub-Committees and to officers. To call for a report on any individual case;

(d) To determine the procedures to be followed in handling applications, notices, representations and all hearings, subject to the relevant Regulations;

(e) Subject to Regulations, to determine the fees payable for applications for premises licences and related matters under the Gambling Act 2005;

(f) In a Council Election Year when there is a need to hold a hearing in the period between Election day and the Annual Meeting of the Council, those Members of the Committee who are re-elected as Councillors shall meet as the Committee (subject to there being a quorum of 3 Members) in order_to exercise any of the functions of the Licensing Sub-Committees, or of the Committee_under (f) above, and shall elect a Chair for the meeting.

(2) In its capacity as the non-statutory Committee exercising other non-executive functions the Committee has the following functions:

(a) Exercising the functions which are stated not to be the responsibility of The Executive/Cabinet In Regulation 2 and Schedule 1, Paragraph B (Licensing and Registration) of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and in any Statute or subordinate legislation further amending these Regulations. The Committee's functions are to determine all policy issues, procedures and standard terms and conditions relating to the non-executive licensing functions but exclude decisions in individual cases which are delegated to the Licensing Sub-Committees. The Sub-Committee's remit includes the licensing of street trading, scrap metal dealing, special treatment premises, sex establishments and dog breeding establishments;

(b) Formulating, reviewing and approving for consultation the Statement of Licensing Policy under the Licensing Act 2003 and recommending it, and any revisions to it, to full Council for adoption;

(c) Being consulted informally on the review and determination of the Statement of Gambling Policy, including procedures for Council consultation with external stakeholders, and making recommendations on these matters to the Cabinet;

(d) Making informal recommendations to the Cabinet and full Council on local development documents, development plan documents, the local development framework, the statement of community involvement and any other planning policy matter;

(e) Reviewing all Council plans and policies on any licensing, planning or regulatory matters, exercising an overview in relation to common themes and making informal recommendations on these matters to Cabinet and full Council;

(f) Making informal recommendations to the Cabinet and other bodies on service delivery, grant aid, commissioning and procurement matters when these involve or relate to licensing, planning, conservation or regulatory issues.

8. The Health and Wellbeing Board

8.1 Health and Wellbeing Board functions

The Health and Wellbeing Board will have the following functions:

(a) To carry out the Board's statutory duties as set out in the Health and Social Care Act 2012, in particular:

(i) for the purpose of advancing the health and wellbeing of the people in its area, to encourage persons who arrange for the provision of any health or social care services in its area to work in an integrated manner;

(ii) to provide advice, assistance or other support as it thinks appropriate for the purpose of encouraging arrangements under section 75 of the NHS Act. These are arrangements under which, for example, NHS Bodies and local authorities agree to exercise specified functions of each other or pool funds;

(iii) to encourage persons who arrange for the provision of any health-related services in its area to work to closely with the Health and Wellbeing Board;

(iv) to encourage persons who arrange for the provision of any health or social care services in its area and persons who arrange for the provision of any health-related services in its area to work closely together;

(v) to discharge the functions of CCGs and local authorities in preparing joint strategic needs assessments (JSNA) and joint Health Wellbeing Strategy (HWB strategy);

(vi) to inform the local authority of its views on whether the authority is discharging its duty to have regard to the JSNA and joint HWS in discharging its functions;

4. Under The Regulatory Committee

4.1 Licensing Sub-Committees

Introduction

The Licensing Sub-Committees have functions either (1) as Sub-Committees of the Regulatory Committee in its capacity as the statutory Licensing Committee of the Council under the Licensing Act 2003, which also exercises functions under the Gambling Act 2005, or (2) as Sub-Committees of the Regulatory Committee in its capacity as a non-statutory Committee exercising non-executive licensing and regulatory functions. At the beginning, and at other appropriate stage(s) in each meeting, the Chair will make a short announcement indicating whether the Sub-Committee is operating in its capacity as "statutory Licensing Sub-Committee" or as a "non-statutory Sub-Committee".

Membership

The membership of each Sub-Committee shall be drawn from the Regulatory Committee. In the event that an appointed Member or Members of a Sub-Committee is unable or unwilling to take part in a hearing for any reason a Special Licensing Sub-Committee may be appointed from among the remaining Members of The Regulatory Committee. When operating in its capacity as "statutory Licensing Sub-Committee" there must be a membership and quorum of 3 present at all times.

(1) General Provisions Relating to the Statutory Licensing Sub-Committees

(a) Licensing Sub-Committees have the power to make final decisions on behalf of the Council on matters within their terms of reference and there is no right of appeal to the Regulatory Committee;

Functions under both the Licensing Act 2003 and the Gambling Act 2005

(b) To determine applications for premises licences where relevant representations have been made;

(c) To determine applications for provisional statements where relevant representations have been made;

(d) To determine valid applications for review of premises licences where relevant representations have been made;

(e) To decide on any other matter where it is necessary or desirable for Members to make that decision;

Functions under the Licensing Act 2003 alone

(f) To determine applications for variations of premises licences where relevant representations have been made except in the case of minor variations;

(g) To determine applications to vary designated premises supervisors following police objections;

(h) To determine applications for transfer of premises licences following police objections;

(i) To consider police objections made to interim authority notices;

(j) To determine applications for club premises certificates where relevant representations have been made;

(k) To determine applications to vary club premises certificates where relevant representations have been made except in the case of minor variations;

(l) To determine valid applications for review of club premises certificates where relevant representations have been made;

(m) To decide whether to give counter notices following police objections to temporary event notices;

(n) To determine applications for grants of personal licences following police objections;

(o) To determine applications for renewals of personal licences following police objections;

(p) To decide on revocation of personal licences where convictions come to light after grant;

(pa) To determine the review of a premises license following a closure order where relevant representations have been made

<u>Functions under the Gambling Act 2005 alone</u>

(q) To determine applications for variations of premises licences where relevant representations have been made;

(r) To determine applications for transfers of premises licences following representations by the Gambling Commission or others;

(s) To determine applications for the re-instatement of premises licences where relevant representations have been made;

(t) To decide whether to give counter notices following objections to temporary use notices;

(u) To determine applications for the grant or renewal of club gaming permits and club machine permits where valid objections have been received;

(v) To determine proposals to cancel club gaming permits and club machine permits where the licence holder requests a hearing;

(w) When the licence holder requests a hearing, to determine officer proposals: (i) to make an order removing the entitlement of an on-premises alcohol licence holder to have one or two gaming machines, or (ii) to cancel or vary a licensed premises gaming machine permit;

(x) To determine applications for the grant or variation of licensed premises gaming machine permits for 5 or more machines or in any case where the Chair of the Regulatory Committee considers that there is cause for concern about the proper management of the premises;

(2) General Provisions Relating to the Non-Statutory Licensing Sub-Committees

a) The Sub-Committees have all the functions which are stated not to be the responsibility of the Council's Executive/Cabinet in Regulation 2 and paragraph B (Licensing and Registration) of Schedule 1 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 S. I. 2853, as amended, or further amended, in any statute or subordinate legislation. The Sub-Committee's remit includes the licensing of street trading, scrap metal dealing, special treatment premises, sex establishments and dog breeding establishments.

(b) The Sub-Committees make decisions in all individual licensing or registration cases where a hearing is required because of an objection to an application or to a proposed revocation or because of an officer recommendation for refusal.

(c) The Sub-Committees have the power to make final decisions on behalf of the Council in relation to its functions in (b).

(d) Excluded from the Sub-Committees' terms of reference are decisions on all policy issues, procedures and standard terms and conditions which are within the remit of The Regulatory Committee.

4.2 Planning Sub-Committee

PART THREE – RESPONSIBILITY FOR FUNCTIONS
Section B – Full Council & Non-Executive Bodies

There is a Protocol outside this Constitution setting out how Members of the Planning Sub-Committee will exercise those functions, including behaviour in relation to applicants, residents and other third parties, to ensure the probity of planning transactions and the highest standards expected in public office. This protocol is supplementary to the Members' Code of Conduct at Part 5 of the Constitution.

The Sub-Committee has all the functions which are set out below and which are stated not to be the responsibility of the Executive in Regulation 2 and Schedule 1 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and in any statute or subordinate legislation further amending those Regulations (references to paragraphs are to those in Schedule 1):

(a) paragraph A - Town Planning Functions

(A) planning applications for the erection of 10 or more dwellings and where the officer recommendation is for approval;

(B) planning applications for changes of use 1000 sq. metres of gross internal floor space and where the officer recommendation is for approval;

(C) planning applications for the erection, or extension of non-residential buildings where the new build is more than 1000 sq metres gross internal floor space and where the officer recommendation is for approval;

(D) unless otherwise agreed with the chair of the Planning Sub-Committee, planning applications either:

(i) for major development as categorised by the Department for Communities in Local Government (DCLG) and where the officer recommendation is for approval; or
(ii) where a S106 is required; or
(iii) where the decision would be contrary to a policy in the development plan;

(E) planning applications submitted by or on behalf of the Council except for applications for development within the curtilage of a dwelling house;

(F) planning applications on Council owned land, where the Council is not the applicant, where significant material planning objections are received during the consultation process and which the Director, in consultation with the Chair of the Planning Sub-Committee, determines should be subject to Members' consideration;

(G) planning applications submitted by or on behalf of Members; or

employees within the Planning Service or senior employees elsewhere in the Council; or their spouses, parents or children;

(H) any planning application to amend an application or vary conditions or a section 106 agreement previously decided/imposed by Planning Sub-Committee and which the Director, in consultation with the Chair of the Planning Sub-Committee, considers to constitute a major or significant change;

(I) any planning application where there have been objections from a single Ward Councillor and/or a local community body and/or a local residents' association, and a written request setting out the planning reasons for the matter to be referred to the Planning Sub-Committee has been made before the expiry of the consultation period, and which the Director in consultation with the Chair of the Planning Sub-Committee considers should be referred to the Planning Sub-Committee for determination;

(b) paragraph I - Miscellaneous Functions;

(A) the creation, stopping up and diversion of highways, footpaths and bridleways in connection with development control decisions, and

(B) the preservation of trees;

(c) The Sub-Committee may enter into highway works agreements under section 278 of the Highways Act 1980 in connection with the determination of a planning application.

SECTION 4 - UNDER ALEXANDRA PALACE AND PARK

Arising from the Council's role as trustee of Alexandra Palace and Park the following additional bodies shall be established. Membership of the additional bodies is as described in the Appointments of Non Executive Committees, Sub-Committees, as approved by the Annual Meeting. The Terms of Reference of the additional bodies shall be as follows:

1. Alexandra Palace and Park Panel

To consider and take decisions upon urgent matters arising between ordinary meetings of the Alexandra Palace and Park Board. The Panel is composed of four Members, selected with reference to political balance.

2. Alexandra Palace and Park Consultative Committee

Alexandra Palace and Park Consultative Committee 7 Members and up to 30 community representatives.

discussion of the relevant matter is concluded unless that member has obtained a dispensation form the Council's Standards Committee.

45. If a member of a Committee has a personal interest which is not a disclosable pecuniary interest nor a prejudicial interest, the member is under no obligation to make a disclosure at the meeting but may do so if he/she wishes.

VOTING

46. Unless the Constitution provides otherwise, any matter will be decided by a simple majority of those members present and voting in the room at the time the question was put. Voting shall be by a show of hands.

47. Immediately after the vote is taken, a member may require to be recorded in the minutes whether he/she voted for or against the decision or abstained.

48. In the case of an equality of votes, the Chair shall have a second or casting vote, unless the constitution of the body as approved by the Council provides otherwise.

49. Proposals carried are recorded as resolutions or recommendations. Proposals lost are not recorded, except as provided for in (2) above.

ATTENDANCE

50. Any member of the Council may attend the public part of all meetings whenever he/she wishes and, with the Chair's consent, may take part in the business of a meeting of which he/she is not a member but may not move a resolution nor vote. Before a member participates in or addresses a meeting under this rule, written notice should be given to the Chair, preferably before the meeting but in any event as soon as the member arrives at the meeting. Members of the Council are not required to complete any form used by the public to request permission to speak at a meeting.

51. With the Chair's consent, any member of the Council may attend the exempt part of meetings whenever he or she wishes and may take part in the business of a meeting of which he or she is not a member but may not move a resolution nor vote. No member, other than the appointed members of the bodies concerned, may attend certain meetings affecting specific individuals, such as Appointments Panels, hearings and appeals where this is prevented in the Constitution or procedure rules of the body or where advised by the Monitoring Officer.

52. Every member attending a meeting shall sign his/her name on the attendance sheet provided for that purpose.

53. Where a member is proposing to be absent for any reason from a meeting of a particular Committee/Sub-Committee to which they have been appointed they may give notice to arrange for a substitute member in their place. The Chief Whip of a political group may give this notice in place of any member from that group who will be absent.

54. Notice under rule 53 must be given in writing, including e-mail, to the Democratic Services Manager by 10.00 a.m. on the day of the meeting if the meeting commences at 6.00 p.m. or later. Where the meeting commences before 6.00 p.m., the notice must be given by 10.00 a.m. on the previous working day before the meeting.

55. On receipt of notice under rule 53 above, the Democratic Services Manager will notify the Chief Whip for the political group of the member who will be absent. The Chief Whip will make arrangements for the attendance of a substitute member from the list of reserve members for that Committee/Sub-Committee nominated by the group. Where none of the listed reserve members for the relevant Committee/Sub-Committee is available, or where no reserve members have been nominated, then the Chief Whip may select any other member of the group. The provisions of this rule are subject to rule 58 below.

56. The name of the Member selected to act as the substitute must be notified in writing, including e-mail, by the Chief Whip to the Head of Local Democracy & Member Services no later than 3 hours before the time for commencement of the meeting stated on the agenda.

57. If the Chief Whip of a political group is absent or unable to act for any reason, then any action to be taken by the Chief Whip in this rule may be undertaken instead by the group's Assistant Whips, Group Secretary and Group Chair.

58. In the case of meetings of Committees/Sub-Committees where prior member training is required, only those members who have attended appropriate training can be selected as substitutes. Currently these bodies are the Standards Committee and its Sub-Committees, the Planning Sub-Committee, Haringey Council and Employees Joint Consultative Sub Committee, Dismissal Appeals Sub-Committee, and hearings conducted by the Licensing Committee and its Sub-Committees. Reserve members will be trained for the relevant body as soon as possible after their appointment.

59. Substitutes properly appointed will be recorded in the minutes and shall carry full voting and other rights and responsibilities. Rule 53 does not apply so as to allow substitution at meetings of The Cabinet or its Committees or its subordinate bodies.

RECORDING, PHOTOGRAPHY AND USE OF SOCIAL MEDIA AT MEETINGS

APPENDIX 4ii

(i) Determining whether the public interest in maintaining the exemption of information, or the exclusion of the duty to confirm or deny, outweighs the public interest in disclosure in relation to any request for information, or to any internal review after the refusal of a request, under section 2 and Part 2 of the Freedom of Information Act 2000;

(j) Being the "qualified person" to form a reasonable opinion as to whether disclosure of information would be likely to inhibit the free and frank provision of advice or exchange of views or would be likely otherwise to prejudice the effective conduct of public affairs under section 36 of the Freedom of Information Act 2000;

(k) In addition the Assistant Director of Corporate Governance is empowered to exercise powers to authorise directed surveillance or the conduct and use of a covert human intelligence source for the purpose of preventing or detecting crime pursuant to sections 28 and 29 Regulation of Investigatory Powers Act 2000

1.5 **Democratic Services Manager**

The Democratic Services Manager is appointed Proper Officer and specified officer in relation to:

(a) Those proper officer functions relating to access to information not delegated to the Assistant Director of Corporate Governance above under Part VA and Schedule 12A of the Local Government Act 1972 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (Access to Information);

(b) Section 191 of the Local Government Act 1972 (providing information to assist the Ordnance Survey);

(c) Sections 225 and 229 and Schedule 14, Part II, Paragraph 25 (7) of the Local Government Act 1972, and Section 41(1) of the Local Government (Miscellaneous Provisions) Act 1976 (custody of, and certifying, documents);

(d) Section 8 of the Representation of the People Act 1983 (the officer who will act as Deputy to the Electoral Registration Officer in the event of the latter's incapacity or a vacancy arising);

(e) Section 2(2) of the Local Government and Housing Act 1989 (Maintenance of the list of politically restricted posts);

In addition the Democratic Services Manager is empowered:

(f) To determine the appointment of outside members to the "pool" from which the membership of School Admissions Appeals Panels and School Exclusions Appeals Panels are drawn;

(g) To determine the membership of individual Appeals Panels (under (f) above) and the selection of Chairs of these Panels;

(h) To make appointments of representative School Governors as notified by the Cabinet Member for Children or the Opposition Spokesperson, as appropriate;

(i) To make appointments to vacancies on the Standing Advisory Council on Religious Education and Conference Committees;

(j) To make appointments to the membership of Special Licensing Sub-Committees from among the Members of the Regulatory Committee;

(k) To appoint an additional Member or Members to any scheduled meeting of a Licensing Sub-Committee from among the Members of the Regulatory Committee whenever the appointment of a substitute Member under the Committee Procedure Rules (Part 4, Section B) would be impracticable and the meeting would otherwise be inquorate;

(l) The exercise of the delegated powers in (j) and (k) above shall be, so far as practicable, in consultation with the Chair of the Regulatory Committee and the Chief Whip of each Group and with a view to achieving political balance in the membership of Licensing Sub-Committees.

(m) To appoint the membership of Assessment Sub-Committees, and Hearing Sub-Committees in accordance with the arrangements for dealing with allegations that a member or co-opted member has failed to comply with the Members' Code of Conduct and the decisions of the Standards Committee and in consultation with the Chair of the Standards Committee and the Monitoring Officer.

1.6 Assistant Director for Human Resources

The Assistant Director for Human Resources is authorised to provide the "Certificate of Opinion" for an employee on SCP44 or above making application to the Standards Committee for exemption of his/her post from political restriction under section 3 of the Local Government and Housing Act 1989 – (Opinion as to whether the duties of the post involve regularly giving advice to Members or speaking to journalists/broadcasters).

Agenda Item 7

Haringey Council

Report for:	**Regulatory Committee 21 May 2015**	**Item Number:**	

Title:	**Development Management and Planning Enforcement Work Report for 2014/15**

Report Authorised by:	**Stephen Kelly – Assistant Director – Planning**

Lead Officer:	**Emma Williamson – Head of Development Management**

Ward(s) affected: **All**	**Report for Key/Non Key Decisions:**

1. Describe the issue under consideration

1.1 To advise the Regulatory Committee of performance on Development Management and Planning Enforcement for 2014/15, together with progress on the Development Management Improvement Plan as well as challenges faced by the service with regard to changes to national policy and resourcing and the service's response to these.

2. Recommendations

2.1 That the report be noted.

2014/15 Development Management performance

4.1 The number of major, minor and other applications determined by Haringey in 2014/15 was 2249 compared to 1965 in 2013/14. The overall number of applications submitted to the Development Management service continues to rise reflecting the increased development activity Londonwide and the prior approval regime introduced by the Government last year. The number of PSO applications (including prior approvals and discharge of condition applications) which were determined in 2014/15 was 979 compared to 513 in 2013/14.

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4.2 The service met the national and local standards for the processing of major, minor and other planning applications in 2013/14 and 2014/15 and is in the top quartile for the processing of major applications despite the increase in applications and staff resources remaining the same.

4.3 Percentage of major applications determined within 13 weeks (including PPA or agreed extension of time as per the Government measure) in 2014/15 is at 100% - well above the corporate target of 65% and is in the top quartile across the country. The cumulative two year performance as at December 2014 (which is the latest published national figure and the measure by which DCLG assess designation as a poorly performing authority) was at 91% which is well above the threshold for designation of 40% and the likely increase to 50%.

4.4 Percentage of minor applications determined within 8 weeks is at 77% for 2014/15 and has exceeded the corporate target of 65% and was above the London average.

4.5 Percentage of other applications determined within 8 weeks is at 81% for 2014/15 and is above the corporate target of 80% and is at the London average.

4.6 Performance on discharge of conditions has improved in 2014/15 but remains below the locally set target of 100%. This is part of the focus for the improvement plan for 2015/16 as the Infrastructure Act 2015 regulations have now been laid so that from15 April 2015, applicants will be able to serve a notice at 6 weeks requesting a decision for certain conditions to be discharged and if no decision is made deemed consent will be granted at 8 weeks.

4.7 The current local target for all applications that are valid on receipt to be registered and allocated to a case officer within 3 working days is not currently being met and this is another area of focus. A new system of automatic allocation has recently been implemented and will improve this process.

4.8 Further details of performance of the service over a number of other indicators is attached at Appendix 1.

Pre-application enquiries

4.9 The formalised paid pre-application planning advice service provided advice on 233 proposals in 2014/15 compared to 120 in 2013/14. A revised schedule of charges including a new paid householder pre-application service was implemented on 1 April 2015. There has been a good take up of the householder service.

4.10 In addition 6 larger development proposals continue to be the subject of a series of meetings through the Planning Performance Agreement process.

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5. Planning Appeals Performance

5.1 The Planning Inspectorate issued decisions on 68 appeals in 2014/15 only 14 of these were allowed (20%). This is below the national average of 30% of appeals which are allowed. The majority of these were decided via the written representations route although there was one Informal Hearing and one Planning Inquiry.

5.2 In the period 1.3.2013-31.3.2015 9 applications were refused by planning committee. 7 of these were against officer recommendation. 7 of these refusals have been appealed. One is still within the appeal deadline. The remaining one was revised, resubmitted and subsequently approved by the committee.

5.3 Of these seven refusals that were appealed two decisions are awaited, two appeals were allowed and three were dismissed. A short report on lessons learned will be reported verbally at the Committee.

5.4 The second DCLG measure for designation as a poorly performing authority relates to appeals on major applications. The measure to be used is the average percentage of decisions on applications for major development that have been overturned at appeal once nine months have elapsed following the end of the assessment period. The threshold for initial designation is 20%. Up to the end of March 2015 the Council is at 0% and therefore well below this target.

6. Planning Enforcement Performance

Number of cases

6.1 The overall caseload continues to increase since 2011-12 and 916 cases were received in 2014/15. At 31 March 2015 492 planning enforcement cases are still open.

6.2 93 enforcement notices and 82 Planning Contravention Notices (PCN) were served in 2014/15. PCN's are a tool to gain further information about a potential breach and these are often a pre-cursor to enforcement action. Further information will be available at the meeting.

7. Development Management Improvement Project

7.1 An external review of the development management service in 2012/13 identified a number of issues which needed to be addressed in order to meet the service's vision to be best in London by 2016 and ensure that the authority was not designated by DCLG as an underperforming local planning authority.

7.2 The key findings of the review were that:

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- There were no standard operations and procedures in place and no consistent approach to handling applications
- Record keeping/audit trail is poor, with limited site notes/records of discussion being kept on file and report writing was very weak
- Website information needs updating and validation guidance was out of date and process poor
- Performance on meeting the national/corporate targets for handling planning applications was falling and the targets were not met for major or other applications for the 2011/12 period
- Caseloads were high and there was a growing backlog of applications
- Service was low cost
- No culture of performance management of staff and project management of applications
- No programme for service improvement was in place
- Customer service was weak with significant delays to get through on the telephone

7.3 The Development Management Action Plan approved by the Director's Group on 14 May 2013 sought to address improvements in procedure, performance management, leadership and customer service.

7.4 The achievements have been significant:

- The service met the national and local standards for the processing of major, minor and other planning applications in 2013/14 and 2014/15 and is in the top quartile for the processing of major applications. This is set against a growing workload of applications.

- An office resource manual has been developed setting out the way in which officers should handle applications

- Weekly majors meeting established to monitor progress on major applications and similar system set up for minors

- The Regulatory Committee adopted a new Planning Protocol in July 2014 to ensure delivery of a high quality service including the introduction of pre-application briefings for members of the Planning Sub Committee, introduced new speaking arrangements and streamlined procedures for dealing with delegated applications

- Improvements to customer service including radical overhaul of the information available on the website, introduction of webforms for enforcement complaints, updated validation checklist and supported the move to the customer service centre

- As a pilot authority of the PAS Planning Quality Framework to understand and benchmark performance against others

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- The pre-application advice service has been reviewed and a new system for advice for householder and smaller schemes implemented with new charges in place from 1 April 2015

7.5 Although significant progress has been made there are still areas identified in the original action plan which need to be addressed as part of continuous improvement of the service. Whilst some of these are business as usual and will be mainstreamed within the proposed new structure, it will be important to ensure that there is sufficient resource within the new structure to ensure resilience.

7.6 The main issues remaining to be addressed are:

- Ensuring the resource manual is kept up to date with changing regulations and legislation and is comprehensive (this will be part of a role in the new structure)
- Work to ensure that there is improvement in the time take over the discharge of conditions to reflect the new deemed discharge procedure including a review of pre-commencement conditions recommended by colleagues in other departments
- Improvements in record keeping/audit trail of progress on cases – ombudsman/enforcement complaints still reflect that record keeping is poor
- Many decisions are still being made very close to the 8/13 week deadlines and there is a need to build in resilience
- Development of a local enforcement plan as required by the NPPF and other improvements to the enforcement service
- Updating validation guidance to reflect changes in legislation/requirements (there is a requirement to refresh every 2 years)
- Improvements in ICT including a document management system to facilitate smart working

<u>The way forward</u>

7.7 Now that the improvement plan has looked at current processes and sought to improve within the current systems, it is considered that a more radical review is needed in order to improve the service efficiency going forward. Without significant change only minor improvements are likely to be achieved. Experience from other authorities is that unless there is a substantial rethink and changes to the way of processing/handling planning proposals there is a limit to the efficiencies that can be achieved.

7.8 Taking account of best practice elsewhere (e.g Camden, Wolverhampton, Blaby) a more fundamental reworking of our processes is being undertaken as without this the service will continue to be affected by parts of the system not working for us or

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our customers. The approach adopted by these authorities takes its starting point from a systems thinking approach from a customer perspective – with customers identified as applicants and residents. This approach was first trialled by Vanguard but has since been adapted for planning. On 5 February 2015, the Board agreed that the service should set up a task and finish group to establish how we might do things to take this forward differently and prepare an implementation programme including a costed resource plan. The Group has started this work (consisting of Head of DM, Team Leader, technical support officer and a planning officer).

7.9 To help develop the approach this we have accepted the offer of PAS support to consider how we might undertake the radical reengineering of the way we process planning applications. Stephen Alexander, the Director of Planning at Wolverhampton City Council is providing the support over a period of 4 days with tasks set in between sessions. He has helped a number of authorities through PAS including Halton and Camden in this regard. With this support a bespoke approach is being developed starting from first principles: establishing the purpose of the development management service; setting the vision for the service – is it to enable good quality development? Is it to provide excellent customer service, minimise cost?

7.10 The principle of the approach is to cut out wasted work, including unnecessary steps and create a system that does not generate unnecessary enquiries by dealing with things from the perspective of the customer. Other authorities have realised substantial benefits from this approach including reduced end to end determination times for applications, substantially reduced progress chasing enquiries and complaints. The principle is that the officers operate on a first off the pile principle for cases and deal with each case as far as possible on the day it is first picked off the pile. This also means that the number of applications officers have on hand reduces and the work they have to juggle therefore also reduces.

7.11 The aspiration is to roll this approach out from October starting with 1/6th of the team. A transformation funding bid will be submitted shortly to fund this approach.

7.12 We are also part of the Planning Quality Framework run by the Planning Advisory Service which allows us to benchmark performance against other similar authorities taking part in this project.

7.13 Although we have already done considerable work in assessing our resources and improving our services we are taking part in the Planning Advisory Service Resources Review Pilot to take this work further. The pilot is designed to assist Councils to consider resourcing options and opportunities and understand and evidence them. The Resource Review considers all the main resourcing aspects of the planning service, including:

- Understanding costs and income levels across the service.
- Understanding the volumes and variety of work and the effect on resources.
- Spotting opportunities to reduce costs.

Haringey Council

- Ceasing to offer services or delivering them differently.
- Increasing revenues.
- Evidencing the effect that changes/opportunities identified will have.

7.14 Taking account of the work that we have already undertaken the resources review is concentrating on the following areas in Haringey:

- Budget and cost recovery
- Consultation – internal and external in relation to the Statement of Community Involvement
- Enforcement

8 Issues and challenges

8.1 The continuing growing personal caseloads of officers and significant national changes to permitted development rights continues to create significant pressures on the caseloads for existing staff.

8.2 The service will need to respond to the Tottenham and Wood Green regeneration programmes providing staffing through Planning Performance Agreements.

8.5 The department is progressing with its restructure however there have been some delays and recruitment is now unlikely to take place before September.

9 Ombudsman case

9.1 On 26 November 2014 the Local Government Ombudsman ruled on a case which had been reported to them by a local resident. The case concerned a second floor extension and loft extension for a property in the South Tottenham SPD area. The site had previously been subject to enforcement action. The decision on the case was as follows: The Council in its report on a planning application failed to show enough detail on how it had assessed the distance and impact on light as required by planning guidance or indicate in weekly lists for councillors' applications for larger developments. The claimant alleged that neighbour amenity and local policy was not properly considered. The Ombudsman ruled that the planning report did not set out in enough detail how impacts on amenity were assessed. The ruling required that a senior officer assess the development and whether permissions should have been granted. The Head of DM visited the site and carried out this assessment and the impact taking account of the privacy arc was considered to be acceptable. The complainant also alleged that councillors do not take their policies seriously enough. Through the investigation the Ombudsman has required that such large extensions are highlighted on the weekly list to ensure that local councillors realise the scale of the proposal. This has been implemented. The Ombudsman also required that this decision was reported to the Planning Committee. An award of £150 compensation for the complainant was also given. Officers feel it more appropriate that it be reported to Regulatory Committee given that this is where performance is discussed.

10 Comments of the Assistant Director of Corporate Governance and legal implications

Haringey Council

10.1 The Assistant Director of Corporate Resources has been consulted in the preparation of this report. As a noting report there are no specific legal implications which arise.

11 Local Government (Access to Information) Act 1985

11.1 Planning staff, application, appeals and enforcement case files are located at 6th floor, River Park House, Wood Green, London N22 8HQ. Application details are available to view, print and download free of charge via the Haringey Council website: www.haringey.gov.uk. From the homepage follow the links to 'planning' and 'view planning applications' to find the application search facility. Enter the application reference number or site address to retrieve the case details.

11.2 The Development Management and Building Control Support Team can give further advice and can be contacted on 020 8489 5504, 9.00am-5.00pm Monday to Friday.

Summary dashboard

Haringey Council

Speed — Amber /Green

Performance on majors measured over the two years rolling is now in the top quartile.

Performance on minors and others is still variable but has improved since the dip in the summer although further improvement is required to move into the top quartile in London. The 2014/15 statistics ended above the corporate targets.

Performance on discharge of conditions is improving although further improvement is needed. Deemed discharge of conditions will be implemented from 15th April with exceptions.

Quality — Amber/Red

No major applications have been overturned at appeal in the last two years.

Performance on validation still needs to improve but is moving in the right direction. A spreadsheet to allow automatic allocation has been developed and implemented.

Whilst new systems are in place in enforcement they still need refining and concerted effort. The enforcement indicators still remain below target and have been further affected by the move of part of this work to the CST

This is Amber/Red because of enforcement.

Cost

The netcost of the service has reduced by half in the last financial year. Further work is taking place on this indicator through a resources review with the Planning Advisory Service

Workforce / Caseloads — Amber /Red

Although caseloads reduced in quarter 3 and the service made inroads to clear the backlog the loss of a member of staff and delay in replacement, coupled with an increase in applications, has led to an increase in caseloads and on hand applications in Quarter 4. The officer has now been replaced but it will take time to feed through a decrease in caseloads. The reduction of the backlog will be a focus of Q1 2015/16 and an additional member of staff is being recruited to assist with this.

Performance on major applications determined within timescale has improved, it is now consistently above target and is above average for London authorities

Haringey Council

Percentage of Major applications determined within 13 weeks

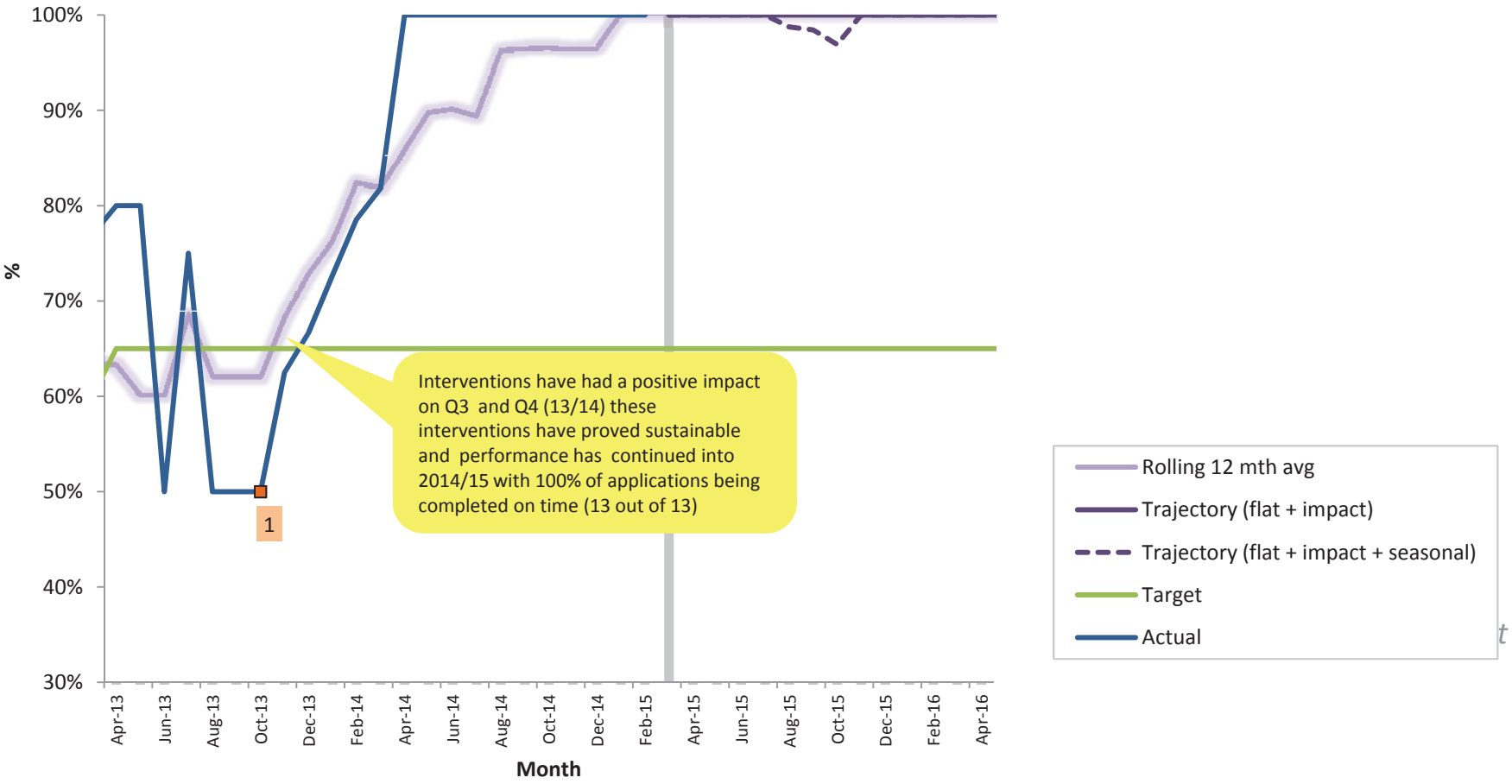
Target: 65% Current performance: 100% (cumulative)

* Applications subject to a PPA or an agreed extension of time are included in these figures.

Percentage of planning applications processed in 13 weeks (Major)

Year to date

Good performance is high



Performance on minor applications determined within 8 weeks was above corporate target and above the London average. However performance remains volatile.

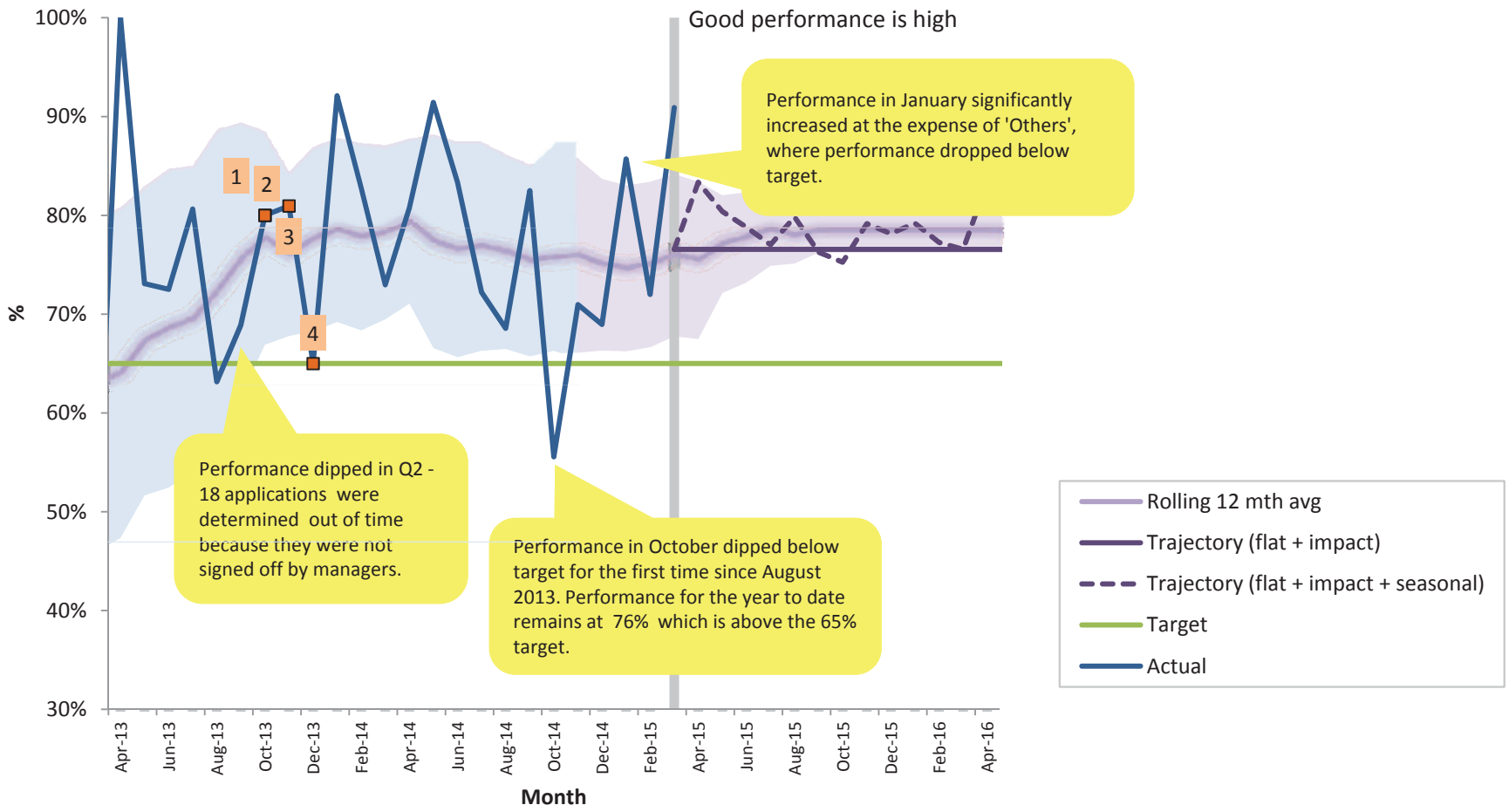
Haringey Council

Percentage of Minor applications determined within 8 weeks

Target: 65% Current performance: 77% (cumulative)

* Applications subject to a PPA or an agreed extension of time are included in these figures.

Percentage of planning applications processed in 8 weeks (Minor)

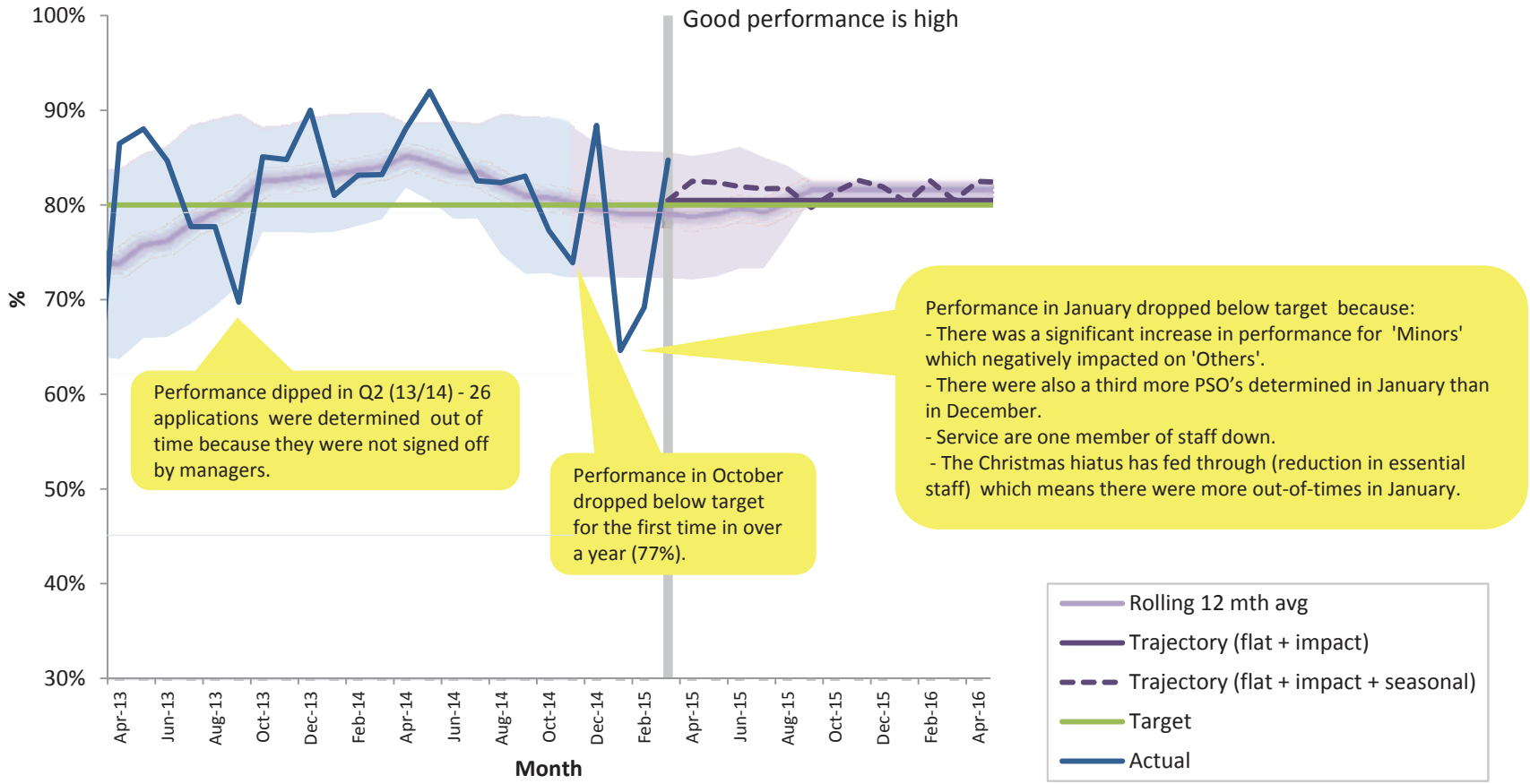


Performance on other applications determined within 8 weeks is above corporate target and at the London average for 2014-15.

Haringey Council

Percentage of others applications determined within 8 weeks
Target: 80% Current performance: 81% (cumulative)

Percentage of planning applications processed in 8 weeks (Other)

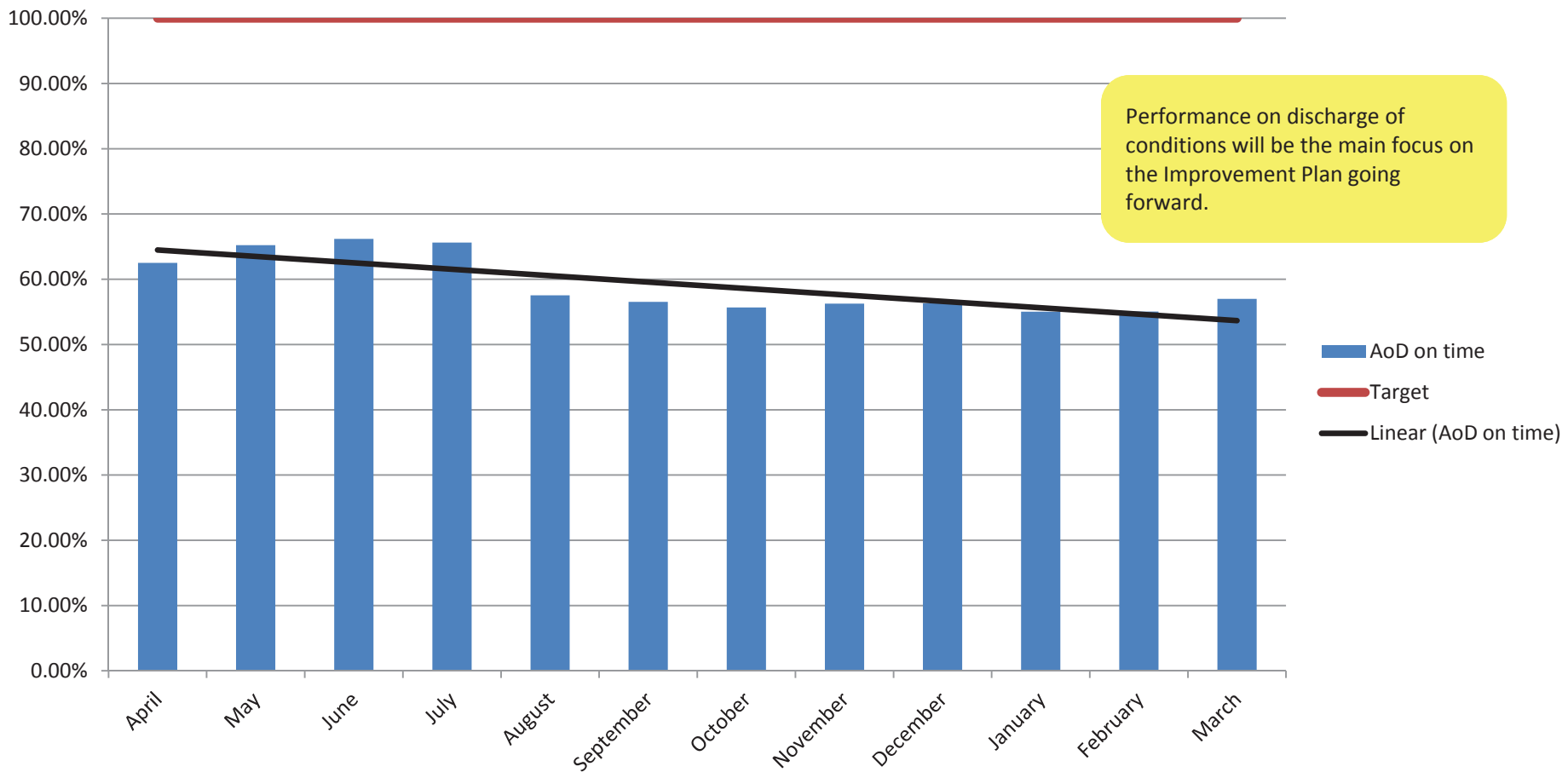


Performance on discharge of conditions determined within 8 weeks has improved in 2014/15 but remains below the service set target of 100%

Haringey Council

% of Approval of details (Discharge of conditions) determined within time
Target: 100% Current performance: 57% (cumulative)

The Government has introduced regulations following the Infrastructure Bill which would allow applicants to serve a notice after 6 weeks on certain applications for a decision within 8 weeks or deemed approval would be given. Regulations come into force on 15th April 2015



Performance on discharge of conditions will be the main focus on the Improvement Plan going forward.

Between April 2014-March 2015 most decisions on minor applications were made between 56 and 91 days, other applications were made between 56 and 62 days, PS0 applications were made between 42 and 73 days.

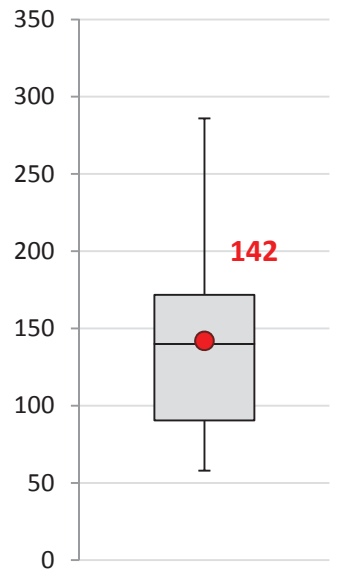
Haringey Council

Days from receipt of a valid application to date of decision issued

Service targets needed to reviewed. (Service to reflect on)
Shows range of time taken and the middle 50%

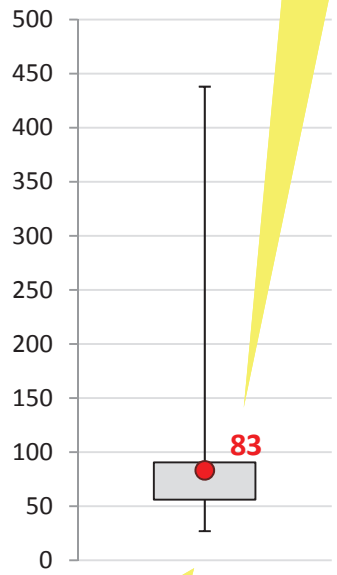
Average days

Majors



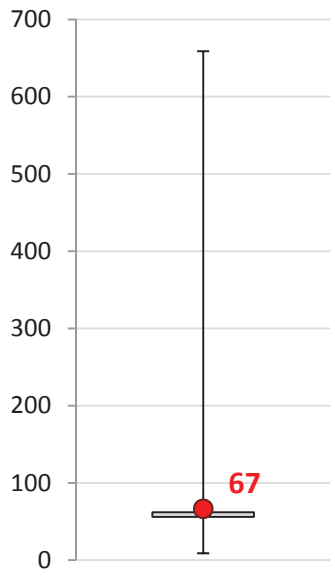
14 of the 20 decisions (70%) were decided within a PPA

Minors



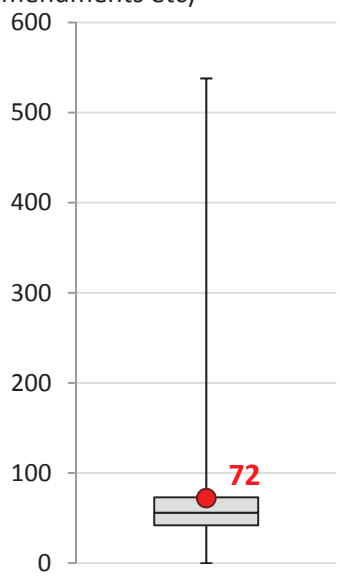
70 of the 371 decisions (19%) were decided within an extension of time

Others



200 of the 1858 decisions (11%) were decided within an extension of time

PS0 (includes discharges of conditions, trees, prior approval, non-material amendments etc)



33 of the 979 decisions (3%) were decided within an extension of time

Corporate Delivery Unit

Between October 2014 and March 2015, 61% of applications submitted on receipt and 17% became valid within 1-3 days of the original received date.

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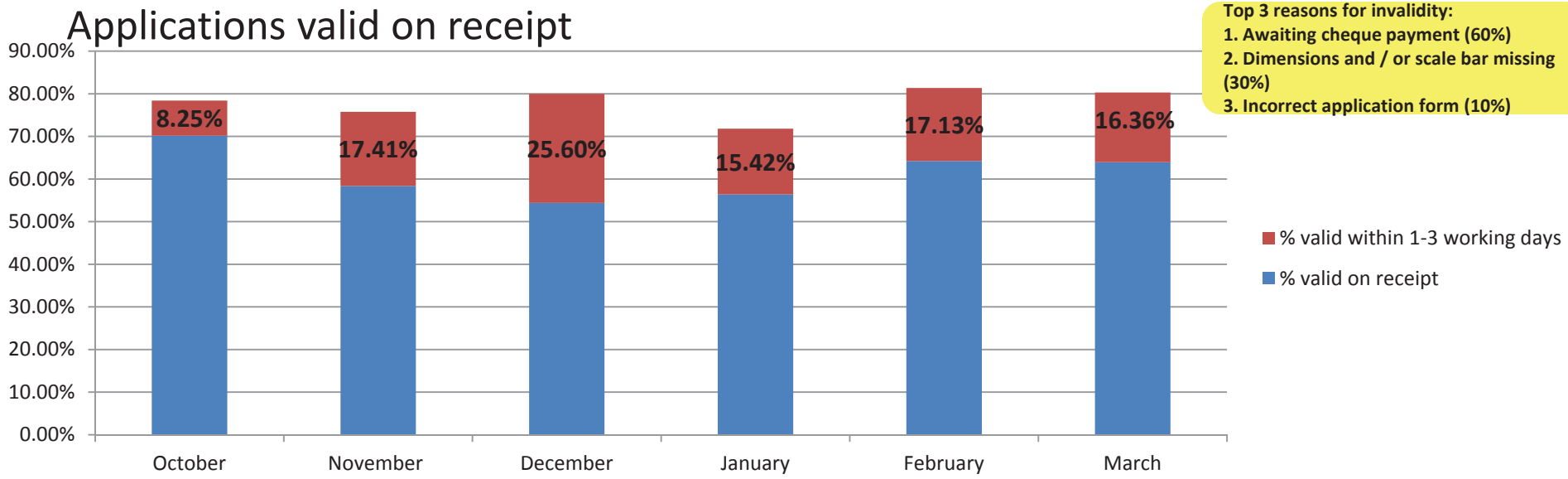
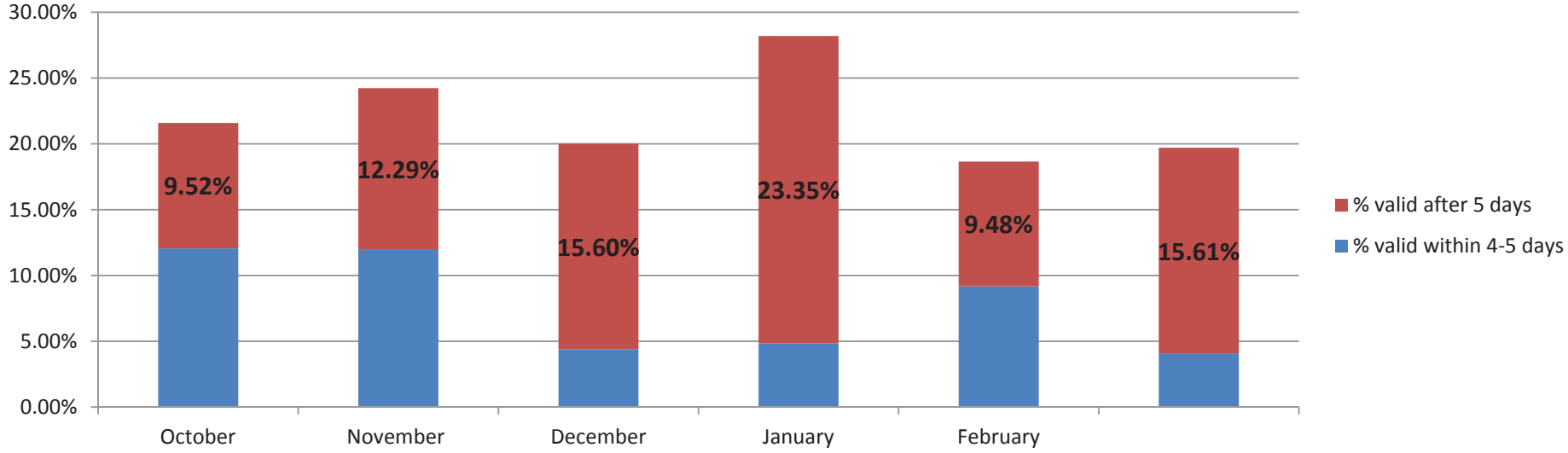
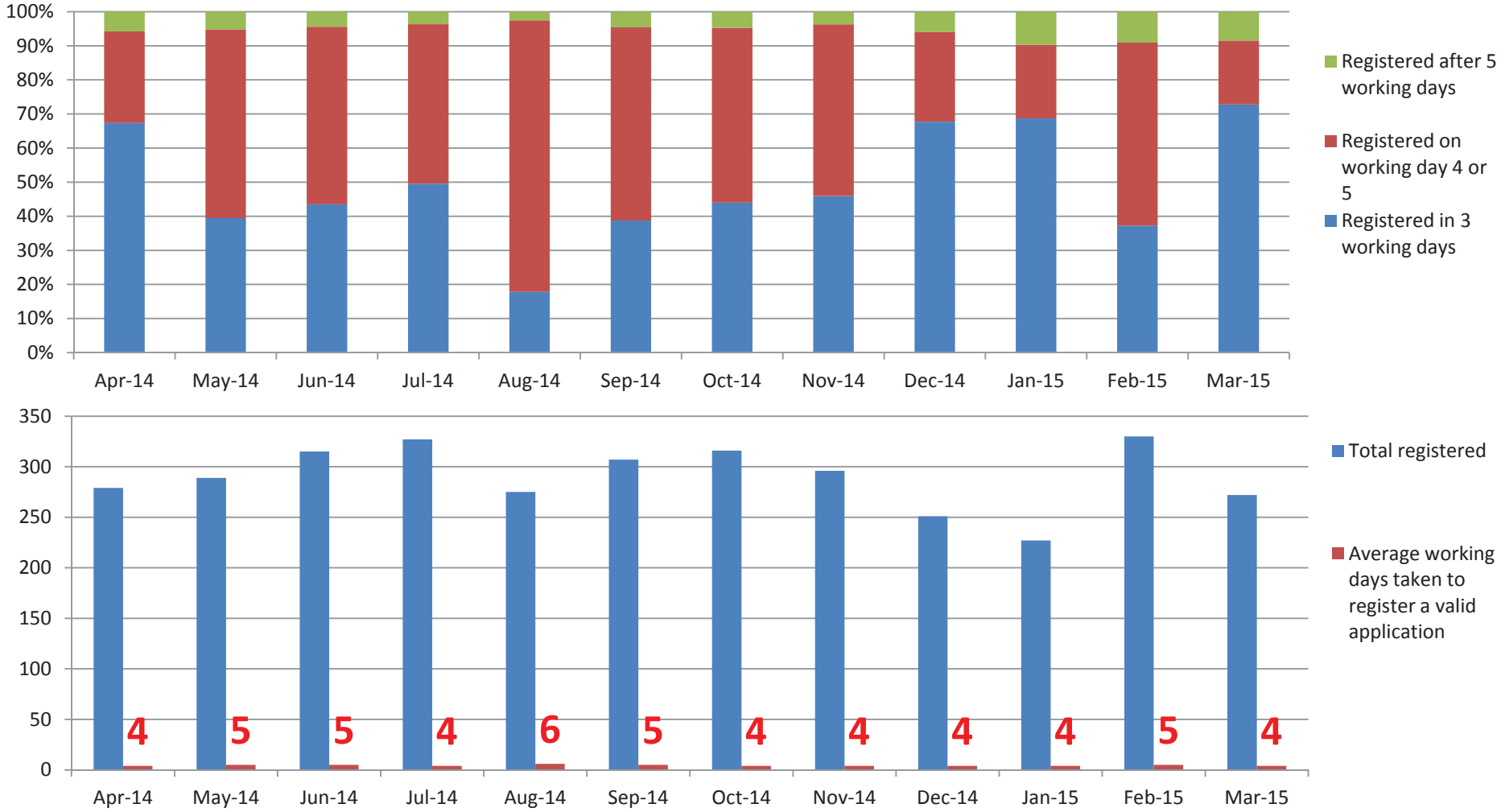
Top 3 reasons for invalidity:
1. Awaiting cheque payment (60%)
2. Dimensions and / or scale bar missing (30%)
3. Incorrect application form (10%)





The current target is for all valid applications to be allocated and passed to a case officer within 3 working days. From April 2014 to March 2015 the average number of days is currently 4 working days.

Days taken to register a valid application



Caseloads have increased over the past 6 months and are higher than they were this time last year.

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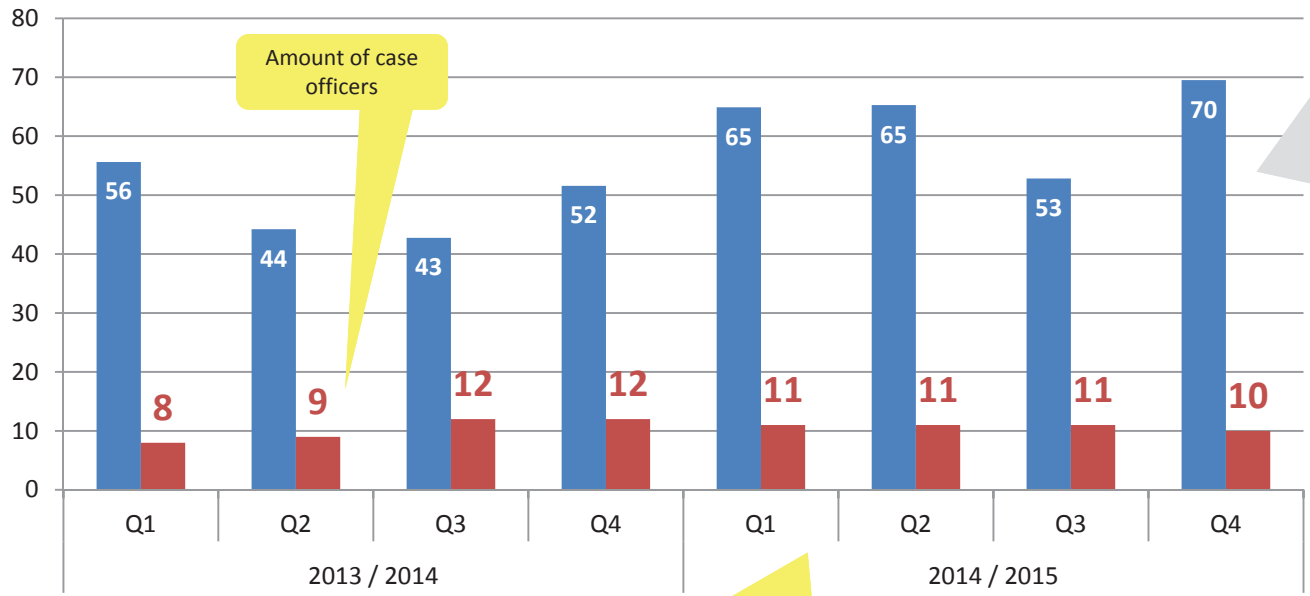
Caseload (average number of applications on hand per officer by quarter)
Target: Not set Current performance:

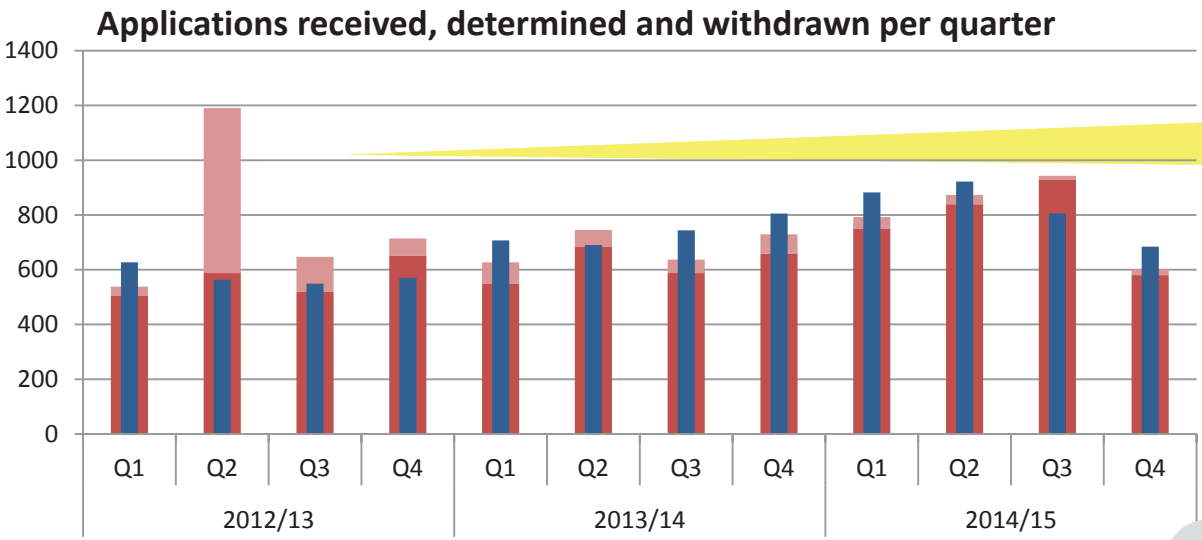


This is a crude measure of caseloads, calculated as follow:
On hand (PSOs, Majors, Minors, Others) / FTE Case officers, this does not include the pre-application caseload, enquiries and appeals

Caseloads increased in Q1 and Q2 of 2014/15 due to a significant increase in the number of planning applications and PSOs received. This reduced in Q3 and the number of cases on hand has fallen.

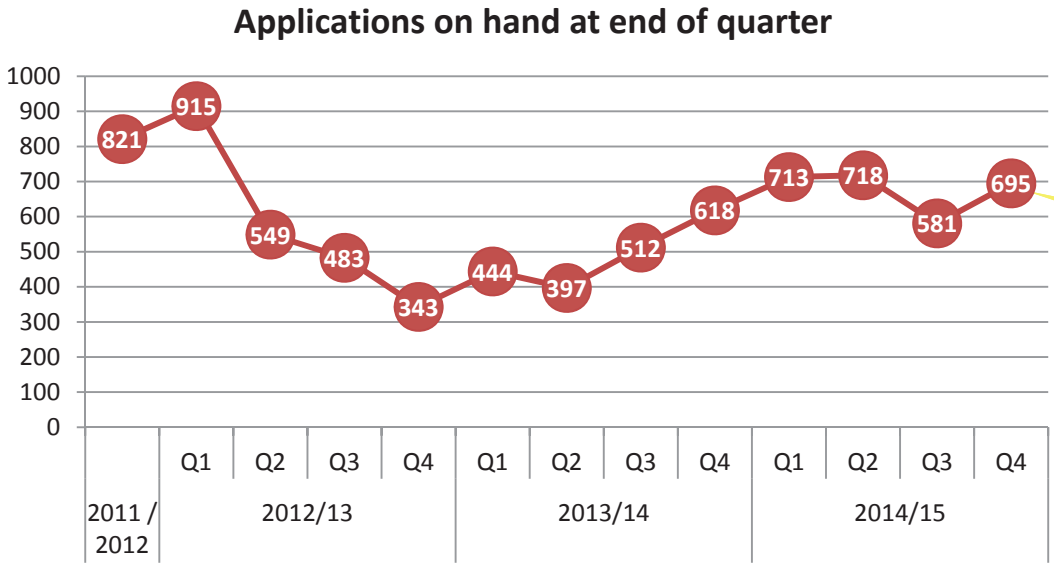
Corporate Delivery Unit

The number of applications on hand decreased in Q3 but has risen again in Q4. A replacement member of staff is starting this week and an extra member of staff is being recruited to focus on the backlog in Q1 2015/16



A large volume of Majors / Minors / Others / PS0 applications were cleared as 'Not Determined' during Q2 of 2012/13 to clear backlog. Backlog started to grow again in Q1 and Q2 of 2014/15.

'Withdrawn' includes applications dealt with under the finally disposed of procedure



Numbers on hand include majors, minors, others and PSO's only. Q3 of 2014/15 saw more applications determined than received so that the number of cases on hand had started to fall but it has risen again in quarter 4.

A healthy ratio would be the number on hand at the end of the quarter being about half of the applications received.