

Future principles governing sector-led planning guidance, advice and support

Purpose of Report

For discussion and direction.

Summary

This report provides suggested core principles which are proposed to govern the LGA's approach to sector led planning advice and support and government guidance. The report also considers the LGA's role in supporting the sector via these routes. The report also seeks members' views on suggested next steps.

Recommendations

1. That the members of the Board **agree the key principles outlined in paragraph 2.**
2. That the members of the Board **agree the scope and role of the LGA in the involvement of advice and support** and the principles that should underpin our involvement, as outlined in paragraph 3.1 – 3.3 and 5.
3. That the members of the Board **agree the proposed next steps in paragraph 8.**

Action

As advised by the Board.

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Background

1. Programme Board members considered the role of planning guidance and sector led support at their meeting in November 2011. Members instructed officers to work with sector groups to develop a series of proposals to inform the LGAs position in relation to government guidance and inform its role in producing advice and support going forward. This paper has been developed following discussions with the Planning Advisory Service and Planning Officers Society and a roundtable discussion facilitated by the RTPi and a range of representatives from the profession and development industry.

Suggested Core Principles

2. The following core principles are suggested as the LGA's position on government planning guidance and to govern the LGA's involvement in the production of future support and advice for the sector.
 - 2.1. The LGA has welcomed the removal of **unnecessary bureaucratic and prescriptive** national guidance.
 - 2.2. **Government guidance should not be the solution to poorly drafted government policy and legislation.** Central government should primarily use the Localism Act 2011, its associated regulations, and the National Planning Policy Framework (NPPF) to clearly set out expectations on councils and key-stakeholders and reduce the need for over-prescriptive reinterpretation.
 - 2.3. When considering the support required to mitigate against the perceived or identified risks **central government and its agencies should consider whether sector led support could mitigate these risks as a first and preferred option.**¹ Government guidance should only be issued where it explicitly mitigates the wider risks, (as described in Paragraph 5), and is perceived to be the only viable route to mitigate those risks.
 - 2.4. Where and when the government and its agencies do issue planning guidance this should be about **clarifying what key stakeholders are required to do rather than how they do it.**
 - 2.5. Central government as a matter of urgency **should clarify what remains in terms of statutory guidance or regulation**, including circulars, guidance notes and statements and; where –if anywhere- it will maintain an interest in resourcing or quality-assuring.

¹ For example in lieu of additional guidance, CLG, LGA and PAS co-sponsor the Gypsy and Travellers National Awareness Training Programme. www.local.gov.uk/travellers

- 2.6. **Central government should make transparent its instructions and advice to the Planning Inspectorate (PINS).** This would provide local authorities in particular greater certainty on the implementation of the planning reforms and reduces the need for additional explanation via guidance.
- 2.7. Best practice toolkits, technical advice and support materials for councils should be **led by appropriate sector groups** and only where it explicitly mitigates wider risks as outlined in Paragraph 5.
- 2.8. Where there is an agreed need for a **common approach amongst stakeholders**, then appropriate sector groups working together should **define and lead on developing** the technical guidance required.²

Key issues for consideration

3. What do we understand by guidance?

- 3.1. Often when we talk about guidance we are in fact referring to best practice toolkits or sector led advice and support materials. There is a need for greater clarity surrounding the description of guidance, advice and support to ensure local authorities, developers, residents and others are clear about the status to be attached to the information.
- 3.2. The range of guidance and support materials can be seen in three tiers:
- 3.2.1. A top tier: focused on legislative requirements, and includes government and their respective agencies and PINs produced / owned information.
- 3.2.2. A middle tier: of (cross) sector developed practice and advice which seeks to address key risks and areas of priority (as outlined in paragraph 5) and;
- 3.2.3. A bottom tier: of regular support, tool kits and opinions from a wide range of practitioners, consultants and others. (See *Figure 1: The Pyramid of Guidance, Advice and Support – appended to this report*)
- 3.3. It is proposed that the LGA focuses on the middle tier of support.**

² For example, the Local Housing Delivery Steering Group (LHDSG) approach is widely regarded as a useful template where the sector itself is determining the scope, need and rationale for particular forms of guidance.

4. What is the status of sector/cross sector led advice and support?

- 4.1. It is for councils themselves to determine based on evidence and experience what approach is best for them and the planning inspectorate will consider each case on its merits. Sector led or cross sector support and advice should seek to assist councils in determining a suitable approach but it should not prohibit or expose councils who pursue a different approach to increased risk or challenge.
- 4.2. Supplementary Planning Documents (SPDs), which are well evidenced and based on local circumstance are a strong example of this and should be recognised as valuable tools for planning authorities and the development industry.
- 4.3. It is proposed that sector groups develop a self accreditation model and do not seek formal endorsement from government or the Planning Inspectorate. It will of course be important to take informal sounding from (PINS) and/or the relevant government department on the accuracy of sector developed advice and support.
- 4.4. This “self accreditation” model is strongly localist in approach, and also highlights how important it is that government make transparent its instructions to PINS, [See Para 2.6].

5. When should central government and/or local government sector get involved in producing supporting material?

- 5.1. In line with the key principle outlined at 2.3 that Government guidance should only be issued where it explicitly mitigates wider risks, with a presumption in favour of sector led approaches to mitigate these risks, we suggest the key tests should be as follows:
 - 5.1.1. Absence of advice/guidance could introduce a reputational risk to the planning system (i.e. it could lead to significant errors)
 - 5.1.2. Absence of advice/guidance could lead to duplication and additional costs for local authorities;
 - 5.1.3. Absence of advice/guidance could lead to uncertainty in the planning system particularly at Examination in Public (EIP).
- 5.2. We believe the LGA and other sector bodies should challenge itself with the same questions when considering the production of advice and support. Where a sector led / cross –sector approach is deemed to be helpful and necessary it is proposed that where it is appropriate the local government sector should seek to work with cross sector colleagues representing the development industry, the planning

profession and community groups for example in the development of advice.

6. How might a sector led or cross sector approach work?

6.1. A basic principle would be to incorporate the views of stakeholders via an independent and unbiased advisory committees, likely achieved by small number of organisations representing a broad spectrum of affected stakeholders)

6.2. Final products / outputs are always endorsed as 'advice' or 'good practice' rather than 'guidance'.

6.3. Where the final produce / output directly impact on local government, there is clear statement on the importance of the localism³

6.4. The production of advice should be transparent with opportunities for groups, individuals and councils to feed in views where practical.

6.5. Where appropriate PINS and/or the relevant government department are invited to provide advice on accuracy.

7. What are the risks of a sector led or cross sector approach?

7.1. Resources and cost pressures: It is important that limited capacity within the LGA is directed towards those issues which are high risk and priority to the sector. **It is proposed that LGA involvement is constrained in the first instance to those issues that meet the tests outlined at paragraph 5.1.**

7.2. On certain issues it may be helpful to the sector to develop commonly-accepted technical standards that are easily comparable. This may mitigate the risk of conflating technical and policy arguments and prolonging debate at examination in public. It is clearly crucial that if/when the LGA endorses a common approach (such as on to technical issues to ensure comparability); we do not inadvertently expose those councils who choose not to follow the methodology to additional risk.

7.3. **It is proposed that the LGA seek wider views from the local government sector on where this might be appropriate (if at all).**

³ For example "there will always be local circumstances and needs to take account of and that Local Planning Authorities are able to exercise local discretion on plan policies and conditions. This advice is intended to provide a framework that outlines the choices and implications of these local policies."

8. Proposed next steps

- 8.1. **The Programme Board Chairman writes to Rt Hon. Greg Clark MP to advise him of the LGAs position.**
- 8.2. **Officers work with cross sector bodies to further consider how a cross sector approach might work in practice and bring detailed proposals to lead board members and planning portfolio holders for decision.**

Figure 1: The Pyramid of Guidance Advice and Support

