



LONDON BOROUGH OF HILLINGDON

**PLANNING PERFORMANCE WORKING GROUP**

**2005/6**

**An Overview and Scrutiny Review**

**PLANNING PERFORMANCE – CONTINUOUS IMPROVEMENT**

***Members of the Working Group***

Cllr Michael Cox    *Chairman*  
Cllr Richard Barnes (from November)  
Cllr Keith Burrows (to October)  
Cllr Catherine Dann  
Cllr Janet Gardner  
Cllr Anthony Way



**January 2006**

**London Borough of Hillingdon**

# Contents

	<b>Page</b>
<b>Chairman's foreword</b>	<b>2</b>
<b>Introduction</b>	<b>3</b>
<b>Summary and Conclusions</b>	<b>7</b>
<b>Recommendations</b>	<b>15</b>

## **Appendices (in 2 separate volumes)**

1. Terms of Reference for the Planning Performance Working Group.
2. Lists of Working Group Members, witnesses and documents consulted.
3. Chronology of Events
4. Evidence Statements
5. Report to Cabinet on 31 March 2005 on the Audit Commission's 31 January 2005 report.
6. Audit Commission Report "Allegations of irregularities in development control statistics" 31/01/05.
7. Letter from and note of meeting with Audit Commission staff during this review.
8. Guidance from ODPM on auditing BVPI 109
9. Other key documents: motion to Council on 23/01/03; responses from Trade Unions to a request for evidence; all-Councillor e-mail from Director of Planning & Transportation; e-mail of an internal meeting in Planning & Transportation Group; PS2 form and guidance; a letter from Government Office for London; and a letter from ODPM.

## Chairman's Foreword



All Councillors are aware of the importance of having a reliable and robust planning service. Most residents in Hillingdon at some time in their lives will have dealings with our planning service and it is vital that we provide an efficient and impartial service – one that the public can have confidence in.

The Planning Performance Working Group therefore well understood the importance of meeting Cabinet's request to investigate the issues raised in the Audit Commission's report on alleged irregularities in development control statistics in Hillingdon. This is not simply a matter of arid numbers but concerns the level of service we are providing and the professionalism of our service. We were pleased to be able to respond to the Cabinet's request and to report back as quickly as possible bearing in mind the complexity of the issues.

This report provides an open and honest account of the circumstances and the processes that led to the Audit Commission's report. Our report concludes with a number of recommendations that we believe will benefit the Council's ability to improve the service we offer residents and restore confidence. We trust these will be acted on as soon as possible.

I would like to thank all those who took part in this Overview and Scrutiny Review - the Members on the Working Group, the Officers who assisted us and the witnesses who gave us information. I would particularly like to thank Graham Jones, President of the Planning Officers Society, who attended two meetings to give us his expert advice, Mario Leo who gave us legal advice throughout, Guy Fiegehen, who provided sound advice and support throughout, and last but certainly not least, Maureen Colledge, who was literally thrown in at the deep end on her appointment and whose contribution was invaluable as the secretary to the Working Group.

*Michael F Cox*

# Introduction

## Background

1. This report concerns allegations of irregularities in the recording and reporting of Hillingdon's development control performance statistics and the several investigations that have taken place into those allegations.
2. Cllr Janet Duncan first made allegations of irregularities in Hillingdon's development control performance statistics in 2003. She raised these in a phone call to the Government Office for London on 20 January 2003 before raising general concerns about the performance of Environmental Services in a motion to Council on 23<sup>rd</sup> January 2003 (see Appendix 9). Feeling the response was unsatisfactory, she took her concerns to a local MP, John McDonnell. He raised these matters with the relevant Minister and as a result, in January 2004, the Minister for Housing and Planning passed the information to the Audit Commission for their consideration. The Audit Commission's report of their investigations was published on 31 January 2005 and considered by Hillingdon's Cabinet in March 2005. (See Appendices 5 and 6 for a copy of the Cabinet report and the Audit Commission's report).
3. The Council is required to report its development control performance via best value performance indicator (BVPI) 109 which sets target times for deciding major, minor and other planning applications. All planning authorities make returns on BVPI 109 achievement to the Office of the Deputy Prime Minister (ODPM) on forms PS1 and PS2 (copy of PS2 in Appendix 9). BVPI 109 influences the amount of planning delivery grant that a planning authority receives and therefore allegations of irregularities in the statistics carry with them the implication that the Council might have been fraudulently rewarded.
4. On 17 June 2004, Environment Overview & Scrutiny Committee proposed setting up a working party of non-Planning Members to conduct a review of planning performance. This was the origin of the Planning Performance Working Group (PPWG), although the group was not constituted until some months later. Terms of reference were developed for the PPWG (see Appendix 1) but before the Working Group started work, a specific request came from Cabinet in March 2005 to carry out a review in response to the Audit Commission's Report into the alleged irregularities, published on 31 January 2005.
5. The Audit Commission's report broadly endorsed conclusions reached by the Council's own investigations in late 2003 and 2004 into its development control statistics. Those investigations found that due to a misunderstanding of the requirements, wrong dates were used for many years to record and report performance to ODPM. The Audit Commission also reported that manual adjustments were made to figures that in around 2-4 % of cases appeared to be "suspicious", i.e. they could have been made to falsely achieve performance targets. The Audit Commission urged the Council to take follow-up action on the manual amendments. It should be noted however that the Audit Commission found no evidence that any individual officer obtained pecuniary advantage from

any adjustments, nor was there evidence that the purpose of adjustments was to secure an increased entitlement to planning delivery grant for the Council.

### **Cabinet's request for this review**

6. On 31 March 2005, Cabinet, after considering the Audit Commission report and a response from the Chief Executive, agreed the following request:
  - i. That the working group set up by the Environment Overview & Scrutiny Committee be asked to investigate the six issues shown in exhibit 5 (on page 6 of this report) of the Audit Commission report. Without limiting the review of any of the issues, would the working group determine, where possible, who made manual amendments to documentation, what disciplinary action has been taken and have robust procedures been introduced to prevent or detect this in the future.
  - ii. Cabinet agreed to provide adequate resources to assist the review including finance for external advice if proved necessary.
  - iii. Cabinet requested a report within 3 months.
7. Environment Overview and Scrutiny Committee agreed to meet this request on 14 June 2005. Preparations were made in July and August for the PPWG to start the review and the Working Group met for the first time on 7 September 2005 when it agreed to give priority to the Cabinet's request before considering its original terms of reference. This report therefore covers those matters requested in paragraph 6 above.
8. The Working Group met seven times to consider evidence between September 2005 and January 2006. Appendix 2 lists the members of the PPWG, the witnesses called and documents consulted. As all members of the Working Group were (deliberately) Councillors with no involvement in Planning Committees, it was decided to seek an expert witness to advise the Working Group on good planning practice. Recommendations from the Local Government Association and ODPM led to Graham Jones, President of the Planning Officers Society and Director of Strategic Policy at the London Borough of Harrow, being invited and accepting this role. The Working Group wishes to thank him for his assistance.
9. The findings and conclusions of the Group are set out in the same order as the six issues in exhibit 5 from the Audit Commission's report. There is an exception, in that under issue 1 we have also discussed and drawn conclusions on the use of the wrong end date for BVPI 109 reporting – the use of date of decision rather than the use of the date of despatch of the decision. This error was discovered in the course of investigating the original allegations and as the Audit Commission report says, was a wider and more significant issue. We therefore felt it was important to cover it.

10. Those not familiar with the history or needing a recap may find it useful to read the chronology of events in Appendix 3 and the Audit Commission's report in Appendix 6 before reading our conclusions.

## EXHIBIT 5 FROM THE AUDIT COMMISSION REPORT: ISSUES AND FINDINGS

Issue	Audit findings
Development control performance, as recorded by BVPI 109, was in some delegated cases being reported by reference to the date of approval of the decision, rather than the date of counter-signing (the 'three-box issue')	This appears to be the case in around 11 per cent of delegated decisions, although in only a very small number of cases does this appear to have resulted in a case that had missed its expiry date for BVPI 109 purposes being incorrectly reported as achieving it.
The date of approval and/or counter-signing was in some cases being manually amended to show an earlier date than was actually achieved	There is evidence of manual amendments to delegated decision records. In a number of cases, this has resulted in BVPI 109 targets being met for applications that otherwise would not have been. Having regard to the circumstances, it is difficult to conclude other than that a number of cases do appear suspicious – possibly in the order of two to four per cent of total cases. The Council is to carry out further work on the manual amendments.
Gaps between the date of delegated decisions and their entry onto Ocella indicated that decisions were being back-dated, given in particular that there were no similar gaps for committee cases	There are gaps between the dates. However, there is no conclusive evidence that this is indicative of deliberate misreporting, rather than, for example, a reflection of delays in administrative procedures.
Procedures were changed to prevent councillors' (and others') access to planning files and performance information so as to hide irregularities	Procedures were changed. However, there is no evidence that this was to hide irregularities, rather than to quality assure information provided to councillors or put into the public domain (for example, on the website).
Officers' concerns about irregularities had been raised at a union meeting	We have been informed that concerns were raised at a union meeting in November 2002. We have also been informed that staff was given the opportunity to provide supporting evidence, but that none was provided. In addition, no minutes of the meeting have been identified. In the circumstances, it is not possible to conclude as to what weight should be given in this respect.
Management appeared to have discussed using the date of decision, rather than the date of despatch of decision, for reporting purposes in October 2001	An email setting out a number of ideas to improve development control performance considered at a team leaders' meeting in October 2001 notes that there is 'no need to wait for decision to go out, the date of signing off is when the application was cleared'. Having regard to those officers present at that meeting, and to those officers to whom the email was sent (or copied), this could be read to indicate the explicit discussion and approval of a change to the use of the date of decision (as distinct from the date of despatch of decision) by the department's senior managers. However, officers interviewed could not recall the specific discussion of this issue. There is no evidence that practice changed following this meeting in this regard, as performance was already being monitored/reported by reference to the date of decision, rather than the date of despatch of decision – and had been, so far as we have been able to ascertain, for a number of years. It is therefore unclear why this matter was discussed. In these circumstances, it is not possible to conclude as to what weight should be given to the email.



## **Summary and Conclusions on the six issues in the Audit Commission's report**

### **Issue 1: Development control performance – use of wrong dates for performance statistics.**

1. Cllr Duncan, who had worked in Hillingdon's Planning Department until March 1999, and Geoff Elliott, a senior manager in Planning and Transportation Group (P&TG), confirmed to us that for many years, stretching back into the 1990s, Hillingdon's development control performance returns to ODPM were made on the basis of using the date of decision rather than the date of despatch of decision as the end date for case performance targets. In the 1990s, this was in the belief that the "right date" was being used. When the new management team arrived in 2001, it was on the basis of assurances from staff that guidance was being fully met.
2. We heard that Hillingdon's development control performance monitoring and reporting was adversely affected during the late 1990s by a reduction in staff support and an ageing IT system (Plan-It) that by the end of the decade had become unstable and unreliable. A decision to introduce a new computer system – Ocella - was taken in 1998 and customisation took place in 1999. But as with so many computing systems, the system took a while to become fully operational so that reliable performance figures from Ocella were not available until 2001/2.
3. The situation described to us by witnesses was of a breakdown of development control reporting in 2000 and the early months of 2001. For 18 months, PS1 and PS2 quarterly returns to ODPM were not made. Adverse factors during 2000 and 2001 were the sickness and retirement of senior planning staff and a high turnover of staff in the planning department. Geoff Elliott told us that when the new management team took up post in Spring 2001 they found no monitoring taking place of officers' caseloads or performance.
4. With the arrival of the new management team, steps were taken to restart quarterly returns to ODPM. Months later, in August 2002, a paper system for the professional oversight of development control was introduced in the form of a front sheet requiring three signatures – caseworker, team manager and senior manager – to sign off planning applications as they made their way through assessment to decision. This did not though change the date used to report planning performance to ODPM.
5. With hindsight it is clear that action taken by the new management team to restart development control performance returns did not involve a deep enough investigation of their content. Wrong dates continued to be used – the date of decision rather than the date of despatch of decision was widely used and, as was later discovered, in around 11 per cent of delegated case that mistake was compounded by the use of the 2<sup>nd</sup> sign off (team manager) date rather than the 3<sup>rd</sup> sign off (section manager) date (the 3-box issue referred to

in Issue 1, Exhibit 5 of the Audit Commission's report). The Director of Planning & Transportation told us that at the time priority was given to getting basic monitoring and reporting practice re-established and improving the planning service to the public. Moreover, she was reassured by checks carried out by Internal Audit and the Audit Commission, as they failed to pick up these problems.

6. We believe the most likely explanation that Hillingdon's returns had for over fifteen years used the wrong end date, and continued to use the wrong end date until early 2004, is that officers mistakenly thought they were using the correct date. The alternative explanation would be to conclude that staff in Hillingdon deliberately and over a long period used the wrong date in order to enhance performance statistics. We do not believe the latter was the case. It seems much more likely that recording errors were made in the early years when there was no Planning Delivery Grant. When the Grant was introduced, the practice did not change and carried on as before.
7. Graham Jones, President of the Planning Officers Society, who appeared before us as an independent expert, stressed that Hillingdon was not alone in using the wrong date for its returns. He brought to our attention the ODPM's letter dated 29 October 2004 sent to all Chief Executives of local planning authorities in England, partly as a result of the Hillingdon disclosures (copy in Appendix 9). The letter referred to an investigation of a *number* of authorities that revealed "several systematic errors made by authorities when recording planning statistics submitted via the PS2 form". The errors varied, e.g. some used wrong start dates, others wrong end dates, suggesting that the original guidance was not as clear as it could have been.
8. The Audit Commission's investigation of Hillingdon, like us, concluded that misreporting based on use of the date of decision rather than the date of despatch of decision was not a deliberate act and that the Council was not unique among local authorities in having erroneously reported performance on this basis. It also found that in the 11 per cent of cases where reporting had been on the 2<sup>nd</sup> sign off date rather than the 3<sup>rd</sup>, only a very small number (amounting to less than 0.5 per cent of cases) resulted in a case that missed its expiry date for BVPI 109 being incorrectly reported as achieving it.
9. It was the introduction of Planning Delivery Grant (PDG) for 2003/4 and future years that gave new importance to the accuracy of development control performance returns. In January 2003, ODPM wrote to all planning authorities saying that PDG would be based on performance in 2001/2. That timing meant that councils could do nothing to enhance their performance and boost their grant in the short-term.
10. Hillingdon's error in using date of decision rather than date of despatch of the decision for the end date came to light during an internal review of over 800 planning cases completed in March 2004. This followed a check of six cases requested by Cllr Duncan and then a subsequent internal audit investigation of 80 cases, both of which were concerned with the (incorrect) use of 2<sup>nd</sup> rather than 3<sup>rd</sup> sign off dates. Once the much bigger issue of the incorrect use of

date of decision rather than use of date of despatch of decision came to light, the Director of Planning and Transportation took appropriate action in April 2004 to advise ODPM and submit correct figures.

11. We are concerned that the quality assurance mechanisms relied on at the time by Planning and Transportation Group failed to pick up the use of the wrong dates. Neither Hillingdon's own internal audit staff who audited BVPI 109, nor Audit Commission staff who carried out annual audits picked out the use of the wrong date. We refer to this again in our recommendations.
12. We also note that relatively little benchmarking of development control procedures took place in this period at Hillingdon. Contact over planning was made with Harrow at their request and with Worthing as they were regarded as having a good level of planning performance. Had there been more contact with other authorities to compare procedures, the date errors might have been discovered earlier. We refer to this in our recommendations.

## **Issue 2: Manual amendments in some cases show an earlier dates than actually achieved.**

1. Clearly there were some suspicious manual amendments made to case records. Cllr Duncan presented two examples from 2002 of dates being manually amended – for example one case appeared to show a date changed from 12 to 3 September. Geoff Elliott also confirmed to us that the thorough examination that he and an Auditor from the Audit Commission made in 2004 identified 49 (5.6%) cases where the manual amendment appeared to be significant. This was done by including adjustments or omissions even if there was doubt about whether or not they were suspicious. On a less exacting basis, Geoff Elliott later reassessed the number of suspicious cases as 17 (1.9%). We prefer to stay with the Audit Commission's conclusions - based on the joint assessment - that the number of suspicious cases is a relatively small proportion of all cases, in the order of two to four per cent of total cases.
2. We investigated the action taken in relation to staff found to have made a number of suspicious manual amendments. We had concerns about the slowness of disciplinary action. Hillingdon's investigations into possible disciplinary offences had been carried out in early and mid 2004 and Personnel would have been ready to take action afterwards. But it was not until 4 March 2005 that the disciplinary hearings took place. The reason for this, as the witness from Personnel Service explained to us, was that they decided to wait for the publication of the Audit Commission report, in case any other matters needed to be pursued. The Audit Commission was passed information about the alleged irregularities in early 2004 but did not report until 31 January 2005. We were advised that to have taken disciplinary action twice, most likely with the same staff, if the Audit Commission findings had raised other issues, would have been unfair to staff and contrary to natural justice.

3. The wait for publication of the Audit Commission report meant that by the time action took place one member of staff identified for a disciplinary hearing had left the Council's employment for more than a year. The Personnel Service witness explained to us that a decision was made by the Head of Personnel not to pursue that individual – both because of the time lapse and because he or she could not be compelled to attend. It is extremely regrettable that this should have occurred.
4. We heard that the disciplinary action taken in 2005 in relation to two other members of staff followed established Hillingdon procedures in operation at the time. The Director of Education, Youth and Leisure chaired the disciplinary hearings as an independent Corporate Director, in the presence of a Personnel Service Officer. The outcome was that one member of staff was found to have no case to answer. For the other member of staff, the case was referred back to the Planning and Transportation Group for "good management action" (a form of disciplinary action). The person concerned was found to have carried out certain tasks in a shoddy manner. This level of action is, we were told, a stage above management supervision but below formal disciplinary action.
5. In considering these matters, we kept in mind the advice we received from the Borough Solicitor that the conduct of employees and disciplinary action is governed by Council employment policies and Members have a very limited role to play in such matters. He emphasised that we should ensure the right of officers not to be "tried twice" and to maintain officers' rights to confidentiality. We also heard from officers in Planning and Transportation of the improved training and supervision of development control staff (see Appendix 4, pages 30-32).
6. Our conclusion is that the Council needs to review parts of the disciplinary procedures to ensure that action can be taken on a timely basis in future. We refer to this in our recommendations.

### **Issue 3: Backdating of the date of decision**

1. This issue is dealt with very briefly in the Audit Commission report conclusions, yet in her evidence to us Cllr Duncan said that this is the issue of most concern to her. Whilst the Audit Commission told us that they carefully considered all the information they received from ODPM, we note with concern that the Audit Commission investigators did not meet Cllr Duncan to discuss her concerns until October 2004. This was nine months after they had first been passed information by ODPM and after they had carried out much of their investigation.
2. Cllr Duncan presented to us a detailed analysis of case information for delegated cases in the period September 2002 to December 2002 showing that there were substantial gaps on the Ocella record between the date the decision was entered on the computer and the date the manager signed off the case. Cllr Duncan's view is that after the manager had signed off the case,

the task of entering the dates and despatching the decision is an administrative one that would not take long. In her view therefore the existence of these substantial gaps indicated backdating to achieve performance target dates. This could be regarded as supposition. However she demonstrated that very small gaps existed for cases decided by the Planning Committee, where cases have dates that can be verified from the Council diary.

3. To illustrate the point Cllr Duncan made to us, we present the example that she explained. Taking case no.1729, the Ocella record shows:

Date received by officer: 17-07-02	Target date: 11-09-2002
Report cleared (by officer)	10-09-02
Report approved (by manager)	11-09-02
Delegation date [i.e. 3 <sup>rd</sup> signatory]	11-09-02
Report sent for typing	30-09-02
Decision notice despatched	10-10-02

This case was received by an officer on 17 July 2002 and so given a performance target date of 11 September 2002. The case apparently was cleared by the 3<sup>rd</sup> signatory (a manager) on 11 September 2002 and so achieved the target. This is shown as the delegation date. But it is 19 days later (30 September) that dates were entered on the computer and it was sent for typing. A further 10 days elapsed before the decision was despatched to the applicant on 10 October.

4. The gap of 19 days shown above between 3<sup>rd</sup> sign off (decision approved) and entry on to the computer is, in Cllr Duncan's view, evidence that it was decided much later (probably 30 Sept) and backdated in order to achieve the target. Cllr Duncan provided us with a long list of cases from September to December 2002 showing gaps between entry on the computer and managers' decisions of between 0 and 27 days for delegated cases. The lists of Committee cases from that time which she provided showed gaps of between 0 to 3 days between the decision date and when the case was entered on the computer. This provided circumstantial evidence that delegated cases appeared to have been backdated to enhance targets.
5. However we received from other witnesses plausible explanations for the existence of these gaps, even if we share the view that these were unacceptably long gaps in terms of public service. At that time, officers thought the key date for performance monitoring was the date of management sign off (date of decision). Therefore they were concerned to achieve that date but less concerned if a case sat around afterwards waiting to be entered on the computer, sent to typing and despatched. Holidays, sickness, the batching together of decisions for sign off and general inefficiency could all have accounted for the gaps, which were not uniform but varied considerably in length. We were assured that Committee cases had little or no such gaps because of the system – the applicant and sometimes Members would be pressing for a decision, they might have been at the meeting and there was a

commitment to issues decisions quickly.

6. Whilst there does appear to be circumstantial evidence that backdating took place, no conclusive, direct or corroborating evidence has to date been produced. A statement was submitted from a former member of staff but he declined an invitation to appear in person and be questioned on its content. In the circumstances, and given the alternative explanations, we consider this allegation has highlighted significant sloppy practice in 2002 but has failed to provide “the smoking gun”. The Audit Commission said much the same – that administrative delay rather than deliberate misreporting could have been the cause of the gaps. We also believe that now Hillingdon is using date of despatch of decision rather than date of decision as the key target date, plus the steps that P&TG are taking to make the recording of dates a machine rather than human task (referred to later), the risk of backdating happening in the future has largely been removed.
7. We also wish to record here the fact that, as mentioned in issue 1, paragraph 10, corrected figures were sent to ODPM in April 2004, irrespective of allegations of backdating.

#### **Issue 4: Councillors’ access to planning files and performance information.**

1. Cllr Duncan produced an all Councillor e-mail that the Director of Planning and Transportation sent on 8 December 2003 (see Appendix 9), asking that future requests to inspect current or archived planning files go through her PA, as evidence that Members’ access to files was restricted.
2. We find this very unconvincing. The e-mail states that the purpose is to provide “an efficient and effective service” and advises that the PA will arrange for members to be able to inspect files at a convenient time for them and if they wish with a planning officer present to assist. We were also able to confirm that Ocella access had been provided in all party offices. This is what enabled Cllr Duncan to carry out the analysis described above. In these circumstances we find this allegation without foundation.
3. We agree with the advice from Graham Jones that it is important to have a procedure for access to files that is both clear to Councillors and to officers. Key principles in such a system are to provide an efficient service that meets reasonable requests while ensuring case files and their paperwork can be kept track of. A Member Liaison Officer exists within Planning and Transportation Group to assist Members wishing to view case files and deal with other enquiries from members. There is a similar arrangement in other Departments besides P&TG.
4. As a result of a request by the Planning Performance Working Group, the Director of Planning and Transportation has ensured that all Councillors now receive a regular copy of Delegated Planning Decisions.

**Issue 5: Officers are alleged to have raised concerns at a trade union meeting.**

1. None of our witnesses produced any documentary evidence on this. We wrote to all Hillingdon Council's recognised trade unions and none was able to provide documents relating to the meeting or the concerns raised. Like the Audit Commission investigator, we conclude that it is not possible to give any weight to this allegation given the absence of evidence.

**Issue 6: Management discussed the use of date of decision rather than date of despatch in October 2001.**

1. Geoff Elliott was able to provide us with a copy of the e-mail referred to in the allegations and we include this in Appendix 9. Whilst the issue of dates was briefly discussed, there was no indication of deviousness or maliciousness. In fact it seems quite an ordinary record and suggests that officers were unaware they were using the wrong date for performance reporting. No corroborating evidence was produced to suggest that this was other than a routine discussion of procedures that at the time were (mistakenly) thought correct.

**Have robust procedures been introduced to prevent or detect any of these issues arising in future?**

1. We were asked specifically to satisfy ourselves that robust procedures have been introduced to prevent or detect such issues arising in future. The Director of Planning and Transportation advised us that a number of changes and improvements had been introduced to the system of monitoring development control performance over the past four and a half years. These are listed in the Director's evidence in Appendix 4.
2. Our expert adviser, Graham Jones, provided us with a checklist for good practice in development control monitoring. This is contained in his evidence in Appendix 4. In his view, having heard the description of Hillingdon's changes, he felt that Hillingdon's system of development control was close to achieving good practice. There are two key elements he felt we needed to ensure worked properly. First, that date recording for performance purposes is automatic and removed from human influence. Automatic date recording was introduced into the Ocella system used in Harrow and therefore should be technically feasible. Second, that procedures are put in place to ensure decisions are posted promptly and do not sit around waiting to be despatched after being put on Ocella and the decision notice printed. We cover both these aspects in our recommendations.

## **Other aspects**

1. Since we began our review, there has been a report to Cabinet from the Borough Solicitor and the Head of Democratic Services that investigated and clarified the procedure for Councillors raising allegations concerning impropriety or similar matters. We strongly endorse the recommendations approved by Cabinet.
2. Finally we wish to report that John McDonnell MP was invited to meet the Working Group to discuss the aspects he raised in Parliament relating to this matter. To date no reply has been received.



## Recommendations

We wish to stress that our concern in this review has been to ensure improvement in Planning to the benefit of Hillingdon's residents. We note that there has been a substantial improvement in Hillingdon's Planning Performance, albeit from a very low base. From 2006/7, Hillingdon will no longer be a "Standards Authority" in relation to planning performance, i.e. an authority designated by ODPM for special attention due to poor performance.

We recommend that Cabinet and Overview & Scrutiny continue to monitor this improvement in planning performance through:

- Scrutinising and, where necessary, challenging the quarterly performance reports that P&TG already put to Cabinet and Environment Overview & Scrutiny.
- Ensuring the recommendations of this review as set out below are acted on with expediency.
- Ensuring that concerns raised by Councillors in future are investigated quickly and that all Councillors are aware of the appropriate channels and procedures for raising concerns and follow these.

Our recommendations for action:

1. Ocella shall be reconfigured to record the date of despatch of decision automatically and print this onto the decision notice. We have recently been told that this change was introduced for the majority of applications in November 2005. We recommend it this is extended to *all* applications and that Internal Audit check and sign off the procedure.
2. Quality checks shall be introduced by February 2006 to ensure that decisions are posted in the mail-box the same day that the decision notice is dated and printed, e.g. unannounced auditing of decisions notices awaiting collection.
3. Audit trails of documents relating to cases shall follow good practice, e.g. the replacing of top sheets if a change to a date is made shall stop – any changes shall be signed for and dated so that they are transparent and can be investigated if necessary.
4. Hillingdon's Planning and Transportation Group shall make greater use of benchmarking with other local authorities in order to achieve best practice in service delivery, e.g. in development control performance monitoring.

5. **Information letters that go out to those who may be affected by Planning Applications should inform residents of their rights to consult their local ward Councillors and should explain that, if they wish the matter to go to Committee, this can only be requested by their ward Councillor or through a petition of 20 or more signatures.**
6. **Planning and Transportation Group shall report back to Environment Overview & Scrutiny Committee in March 2006 on each of the above matters.**
7. **In any audits of BVPI 109, Internal Audit (a) picks up on the issues raised in this report and (b) adheres to the guidance issued by the ODPM in respect of auditing BVPI 109 (in appendix 8). Internal Audit shall report on this to the Environment Overview and Scrutiny Committee as soon as possible in 2006/07.**
8. **The procedures that Councillors shall follow in raising issues of impropriety or poor practice were the subject of a separate investigation that reported to Cabinet on 8 September 2005. We endorse the recommendations made in that report and point Councillors, who wish to make allegations in the future, to the guidance. We also invite Cabinet to review the complaints procedure to ensure that where a serious complaint is made arrangements ensure propriety and fairness, e.g. that an officer should not investigate a serious complaint made against her/him.**
9. **It is important to be able to take timely action in relation to disciplinary hearings and we therefore recommend that Personnel Service review its procedures in the light of these events. We recommend Corporate Services Overview & Scrutiny Committee review this topic in the future.**
10. **We have also heard that the very long period of time that these allegations have been under investigation, in one form or another, has had an impact on staff morale and on the ability of the P&T Group to move forward. If it should prove necessary to set up a special task group in future to investigate allegations (in any part of the Council) we recommend that this is done with greater expediency in order to avoid the harm caused by delayed or unnecessarily stretched out investigations.**

# **Planning Performance Working Group**

## **An Overview and Scrutiny Review**

# **Planning Performance – Continuous Improvement**

## **Appendices**

**Volume 1 – All appendices except appendix 4**

**January 2006**

**London Borough of Hillingdon**

## 1. Contents of Appendices (Appendix 4 is in Volume 2)

	<b>Page</b>
1. Terms of Reference for the Planning Performance Working Group.	3
2. Lists of Working Group Members, witnesses and documents consulted.	7
3. Chronology of Events	9
4. Evidence Statements (this appendix is a Part 2 document because it contains information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder or applicant to become an office-holder of under, the authority. It is therefore in a separate volume and distribution excludes press and public).	In Volume 2
5. Report to Cabinet on 31 March 2005 on the Audit Commission's 31 January 2005 report, and record of the Cabinet's decision.	15
6. Audit Commission Report "Allegations of irregularities in development control statistics" 31/01/05.	25
7. Letter from and note of meeting with Audit Commission staff during this review.	39
8. Guidance from ODPM on auditing BVPI 109	47
9. Other key documents: motion to Council on 23/01/03; responses from Trade Unions to a request for evidence; all-Councillor e-mail from Director of Planning & Transportation; e-mail of an internal meeting in Planning & Transportation Group; PS2 form and guidance; letter from Government Office for London, letter from ODPM to Chief Executives dated 29 October 2004 concerning Planning Delivery Grant and submission of PS1 and 2 returns.	49

## Appendix 1: Terms of Reference for the Planning Performance Working Group

1. The Environment Overview and Scrutiny Committee proposed on 17<sup>th</sup> June 2004 that a working group comprising councillors who did not serve on planning committees should review the performance of Hillingdon's planning service.
2. The Overview and Scrutiny Coordinating Committee agreed terms of reference for the working group on 13<sup>th</sup> July 2004, subject to legal advice about the exclusion of planning committee councillors and any need for no-planning councillors to receive training about planning issues. Those original terms of reference are attached.
3. On 31<sup>st</sup> March 2005 Cabinet invited Overview and Scrutiny to add a number of points to the working group's terms of reference. These were accepted by the Overview and Scrutiny Co-ordinating Committee on 10<sup>th</sup> May 2005 and by the Environment Overview and Scrutiny Committee on 14<sup>th</sup> June 2005. These additions to the terms of reference are also attached together with a copy of exhibit 5 in the Audit Commission report.

Guy Fiegehen  
Overview and Scrutiny Team  
4<sup>th</sup> July 2005

## TERMS OF REFERENCE

### PLANNING PERFORMANCE – CONTINUOUS IMPROVEMENT

#### AGREED on 13 JULY 2004

##### 1. Topic and key issues to address

- Definition of Planning Performance
- Meeting Governments PSA6 target
- Role of Councillors in helping to improve planning performance
- Best practice in planning performance
- What would an excellent performing Hillingdon Planning Service look like?

##### 2. Background information e.g. reports

- Planning and Compulsory Purchase Act 2004
- Excellence in Planning (IDEA Website)
- Review 'best practice' authorities for performance
- Planning Policy Statements
- ODPM research documents on planning practice
- ODPM / Audit Commission reports on Hillingdon Planning Service
- Planning and Transportation Service Plan

##### 3. Who's it for

- An excellent performing planning service will benefit local residents, improve decision-making and make Hillingdon a more attractive planning service to work for.

##### 4. Desired outcome: what will happen as a result?

- Planning performance in Hillingdon improves and the planning service moves towards the excellence in planning model advocated by the Planning Officers Society and IDEA
- Members role in planning performance will be more clearly defined
- Members positive approach to improvements in planning performance will be developed
- Hillingdon meets the PSA6 standard target set by government

##### 5. Report outputs to include

- Findings and conclusions
- Proposals / recommendations
- Consideration of the cost efficiency of the Service
- The impact of statutory consultees in meeting deadlines

##### 6. How study will be conducted

- Document review
- Review 'best practice' authorities
- Preparation of written report

**ADDITIONS TO THE TERMS OR REFERENCE REQUESTED BY CABINET ON 31 MARCH 2005**

- (i) That the working group set up by the Environment Overview & Scrutiny Committee be asked to investigate the six issues shown in exhibit 5 (attached) of the Audit Commission report. Without limiting the review of any of the issues would the working group determine where possible who made manual amendments to documentation, what disciplinary action has been taken and have robust procedures been introduced to prevent or detect this in the future.
- (ii) Cabinet agrees to provide adequate resources to assist the review including finance for external advice if proved necessary.
- (iii) Cabinet request a report within 3 months.

**On 7 September 2005, the Working Group agreed to take first the additions requested by Cabinet on 31 March 2005.**

## EXHIBIT 5: ANALYSIS OF AUDIT FINDINGS

Issue	Audit findings
Development control performance, as recorded by BVPI 109, was in some delegated cases being reported by reference to the date of approval of the decision, rather than the date of counter-signing (the 'three-box issue')	This appears to be the case in around 11 per cent of delegated decisions, although in only a very small number of cases does this appear to have resulted in a case that had missed its expiry date for BVPI 109 purposes being incorrectly reported as achieving it.
The date of approval and/or counter-signing was in some cases being manually amended to show an earlier date than was actually achieved	There is evidence of manual amendments to delegated decision records. In a number of cases, this has resulted in BVPI 109 targets being met for applications that otherwise would not have been. Having regard to the circumstances, it is difficult to conclude other than that a number of cases do appear suspicious – possibly in the order of two to four per cent of total cases. The Council is to carry out further work on the manual amendments.
Gaps between the date of delegated decisions and their entry onto Ocella indicated that decisions were being back-dated, given in particular that there were no similar gaps for committee cases	There are gaps between the dates. However, there is no conclusive evidence that this is indicative of deliberate misreporting, rather than, for example, a reflection of delays in administrative procedures.
Procedures were changed to prevent councillors' (and others') access to planning files and performance information so as to hide irregularities	Procedures were changed. However, there is no evidence that this was to hide irregularities, rather than to quality assure information provided to councillors or put into the public domain (for example, on the website).
Officers' concerns about irregularities had been raised at a union meeting	We have been informed that concerns were raised at a union meeting in November 2002. We have also been informed that staff were given the opportunity to provide supporting evidence, but that none was provided. In addition, no minutes of the meeting have been identified. In the circumstances, it is not possible to conclude as to what weight should be given in this respect.
Management appeared to have discussed using the date of decision, rather than the date of despatch of decision, for reporting purposes in October 2001	An email setting out a number of ideas to improve development control performance considered at a team leaders' meeting in October 2001 notes that there is 'no need to wait for decision to go out, the date of signing off is when the application was cleared'. Having regard to those officers present at that meeting, and to those officers to whom the email was sent (or copied), this could be read to indicate the explicit discussion and approval of a change to the use of the date of decision (as distinct from the date of despatch of decision) by the department's senior managers. However, officers interviewed could not recall the specific discussion of this issue. There is no evidence that practice changed following this meeting in this regard, as performance was already being monitored/reported by reference to the date of decision, rather than the date of despatch of decision – and had been, so far as we have been able to ascertain, for a number of years. It is therefore unclear why this matter was discussed. In these circumstances, it is not possible to conclude as to what weight should be given to the email.



## Appendix 2: Lists of Working Group Members, witnesses and documents consulted

### 1. Planning Performance Working Group Members

#### Councillors:

Mike Cox (Chairman)  
Richard Barnes (from November)  
Keith Burrows (to October)  
Catherine Dann  
Janet Gardner  
Anthony Way

#### Secretariat:

Maureen Colledge  
Guy Fiegehen

#### Legal advice:

Mario Leo  
Raj Alagh

### 2. Witnesses (in the order that their evidence was given to the Working Group)

Geoff Elliott, Head of Performance and Initiatives, Planning and Transportation Group, London Borough of Hillingdon

Graham Jones, President of the Planning Officers Society and Director of Strategic Policy, London Borough of Harrow

Cllr Janet Duncan, London Borough of Hillingdon

Mike Haworth-Maden from the Audit Commission (written evidence only)

Pat Wardle, Personnel Advisor, London Borough of Hillingdon

Jean Palmer, Director of Planning and Transportation Group, London Borough of Hillingdon

Cllr Ray Puddifoot, Leader of London Borough of Hillingdon

Mr Edington, a planning applicant living in Hillingdon (written evidence only)

Mr Rob Clarke, a former staff member of Planning and Transportation Group, London Borough of Hillingdon (written evidence only)

Dave Lincoln, Head of Internal Audit, London Borough of Hillingdon (written comments on recommendations)

**3. Documents consulted in addition to those contained in these appendices:**

*Best Practice Guidance on the Validation of Planning Applications*, ODPM, March 2005

*Evaluation of the Planning Delivery Grant 2003/4*, Report to ODPM by Addison & Associates with Arup, September 2004

Planning and Transportation Group's Delegated Decision sheet showing the 3 boxes for signature

Planning and Transportation Group's written procedures to ensure probity and good practice in the handling of all applications

Copy of a page from the register that P&TG staff sign for attendance at probity and compliance seminars

Papers provided by the Leader relating to the timing of actions relevant to this review and in relation to an individual case

## Appendix 3: Chronology of Events

### Chronology of events relating to the allegations of irregularities in development control statistics

Prior to 2002

- **Hillingdon's planning service produces performance figures for processing planning applications based on a decision date for at least 15 years.** When Ocella (Planning & Transportation Group's current computerised record system) was introduced from 1999. It took over from a previous IT system that did not have the facility to provide performance information on a despatch date, only on the decision date. Ocella continued the process of using the decision date as the key date for producing performance reports.
- Reductions in staff and an ageing IT system, coupled by time needed to implement fully the new Ocella system, led to a **breakdown in development control performance reporting in 2000 and early 2001.** Quarterly performance returns to ODPM were not made for a period of 18 months prior to April 2001. Returns were restarted after the arrival of a new management team in Spring 2001.

2002

- **Three-box system for signing off delegated cases introduced in Hillingdon in August 2002.** Three signatures – case officer, team manager and section manager – needed for a delegated case decision.
- **Government announces a new planning delivery grant system.** Additional grant is to be awarded to planning authorities that improve performance in 2001/2 compared to 2000/1 by meeting targets for the time taken in deciding planning applications.

2003

- **Council receives £320,000 planning delivery grant for 2003/4** in part based on reported improvements in its development control performance for the year ended 30 June 2002.
- **During the first half of 2003 Councillor Janet Duncan questions the performance statistics on which Hillingdon's planning delivery grant based.** Alleges that Planning & Transportation Group:
  - Are using incorrect dates to report time taken to deal with applications, e.g. using date of decision rather than date of 3<sup>rd</sup> signatory sign-off.
  - Planning case records have been manually altered to change sign off dates so that cases come within time limits, resulting in targets being met, when they would otherwise not have done.

- **January 20 2003, Cllr Duncan puts through a call to Government Office (GOL) for London regarding planning performance targets.** GOL advises Cllr Duncan to take her concerns to the Best Value Team in ODPM.
- **January 23 2003, Cllr Duncan proposes a motion at Council on Environmental Services Performance.** Amendment proposed by the Liberal Democrats and amended motion passed.
- **March 2003, Cllr Duncan contacts the Best Value team in ODPM, who advise her to put forward concerns, via M.P., to the Minister.**
- **14 July 2003, Janet Duncan meets senior management in Planning and Transportation Group.**
- **July 2003, Head of Planning and Transportation commissions Internal Audit to undertake a review of a sample of 100 planning files** from 2002 to date, after a review of 6 case files requested by a Councillor shows gaps between dates of signature of the Team Manager and Section Manager and that the date of decision is (incorrectly) the earlier date. Internal Audit conclude that on limited sample tested (80 cases achieved) performance was being misreported in slightly less than 10 per cent of delegated decisions but that “ findings do not show any evidence of irregularity which would suggest a deliberate breach of the established procedures”.
- **Councillor Janet Duncan lodges concerns with John McDonnell MP for Hayes & Harlington.** Also alleges that an internal memorandum from October 2001 shows that the use of incorrect dates was known to Planning Department management. In autumn 2003, the MP passes the information to the Minister for Housing and Planning.
- **Nov 2003, an extended review, following up the Internal Audit findings, commissioned by the Head of Planning and Transportation. Completed in March 2004.** Covers approximately 20 per cent of cases determined between September 2002 and February 2004 (876 cases) and was undertaken by managers from Planning and Transportation Group. During this investigation, it was identified that the date of decision rather than date of despatch of decision was, incorrectly, being used to report performance on BV109, which in part determines grant allocation.

2004

- **January 2004, Minister for Housing and Planning passes the following information to the Audit Commission for their consideration:**
  - Performance had been reported by use of date of approval rather than date of sign off (“the 3 box issue” – allegations that performance was reported by date of Team Manager approval rather than by the date of the 3<sup>rd</sup> signature).
  - Team Manager and/or Section Manager sign-off was in some cases manually amended to show an earlier date than actually achieved.

- Gaps between the date of decision and entry into Ocella (the Council's computerised development control records) showed decisions were being back-dated, given there were no similar gaps for committee cases.
  - Procedures were changed to prevent Councillors' (and others') access to planning files and performance information so as to hide irregularities.
- **Audit Commission carries out investigations during 2004:**
    - Reviews the Council's internal investigations (detailed above and below).
    - Undertakes their own testing of the Council's development control records.
    - Interviews a number of past and present Council officers
    - Meets Councillor Janet Duncan and John McDonnell MP.
- **February 2004, further investigation commissioned by the Chief Executive and the Corporate Director for Environmental Services into the "3-box issue" and into the wider issue of using the date of decision rather than the date of despatch of decision to report performance.** This investigation was undertaken by the Head of Planning and Transportation and a representative from Personnel and comprised interviews with 10 Council officers. On the 3-box issue, verbal assurances were received that the proper procedures were being followed. On the wider issue of using date of decision rather than date of despatch of decision, it emerges that performance had been incorrectly reported for several years.
- **From Feb 2004, Planning and Transportation Group introduces a number of changes to procedures.** These include changing Ocella to record performance by date of despatch of decision, monitoring application stages daily (from Feb 2004), monthly checks on all application decisions, despatch date screen printed from Ocella and put on file when decision despatched, guidance provided and compliance seminars held for staff, random compliance checks undertaken weekly without reference to P&T staff.
- **Mid-March 2004, a further internal investigation commissioned by the Head of Planning and Transportation after the Audit Commission tests development control records and find dates continued to be manually amended.** Two Planning and Transportation managers review a sample of 236 delegated decisions (57 per cent of decisions) from February and March 2004. Twenty-seven cases (9 per cent) contain errors – mainly minor and clerical – leading to guidance being issued to staff on these matters. A specific case identified by Audit was also investigated and two officers interviewed by the Head of Planning and Transportation and a representative from Personnel. No wilful malpractice was identified.
- **April 2004, Head of Planning and Transportation provides corrected performance figures, based on date of despatch of decision rather than date of decision, to ODPM and grant is reassessed.** ODPM decide not to claw back any of the £320,000 grant paid for 2003/4. Council awarded £223,586 for 2004/5 based on adjusted figures.
- **9 June 2004, John McDonnell MP outlines concerns and questions the Minister in an adjournment debate about the progress of the District Auditor's inquiry.**

- **17 June 2004, Environment Overview & Scrutiny Committee propose that a working party of non-Planning Members be set up to conduct an overview enquiry into planning performance** (the origin of the Planning Performance Working Group).
- **June 2004, External consultants commissioned by the Head of Planning and Transportation review and validate new processes for recording and reporting development control performance.** Find one relatively minor issue that is subsequently addressed.
- **June 2004, Consultants commissioned by ODPM in Feb 2004 visit Hillingdon's Planning and Transportation Group to evaluate the Council's performance.** Subsequently their findings are referred to in the Audit Commission report, which quotes them as saying "despite the recent problems with the data and the very low levels of performance, there has been underlying progress in improving performance and figures provided for Q[uarter]4, which includes a period since the delay in issuing decision notices was uncovered, are very encouraging. This is reflected in the revised performance figures for 2003/2004".
- **8 July 2004, John McDonnell MP raises in Business Questions his anxiety that the District Auditor had not approached him or Councillor Janet Duncan.** District Auditor subsequently meets them in October 2004.
- **16-21 July 2004, a representative of the Audit Commission and Geoff Elliott systematically re-examine the 876 delegated cases from Sept 2002 to Feb 2004 checking for manual adjustments.** Find 5.6 per cent of the cases had "potentially significant" manual adjustments and a number of cases "possibly in the order of two to four per cent of total cases" appear suspicious
- **October 2004 Cllr Duncan and John McDonnell, MP, meet the District Auditor.**

2005

- **31 January 2005, Audit Commission produces report "Allegations of irregularities in development control statistics", finds:**
  - Development control performance was misreported over a number of years by reference to date of decision rather than date of despatch of decision, but this was not a deliberate act; it predated the current information system; and the Council was not alone in having erroneously reported performance this way.
  - Around 11 per cent of delegated decisions were reported by date of approval rather than date of counter-signing (3-box issue) but in only a very small number of cases would this have made a difference to reporting for BV109.
  - There is evidence of manual amendments and in a number of cases – about 2 to 4 per cent – this appears suspicious.
  - There are gaps between date of decision and date of entry into Ocella but there is no conclusive evidence that this is deliberate misreporting rather than a reflection of administrative delays.

- Procedures were changed in relation to access to case files and performance information but there is no evidence that this was to hide irregularities rather than to quality assure information being released into the public domain.
  - Evidence was not produced in relation to allegations that staff concerns were raised at a trade union meeting and that management were aware in 2001 of the incorrect reporting by date of decision rather date of despatch.
  - The report notes that the Council has made a number of changes to its procedures to address the issues arising from investigations. They also report that performance in 2004/2005 has continued to improve so that the Council is now exceeding its ODPM targets.
  - Subject to the reservations below, the Auditors conclude that the Council's broad findings were confirmed by their own considerations. They propose to "monitor carefully the process and outcomes of the further work proposed by the Council".
  - The Auditors express reservations about:
    - The Council only recently undertaking investigations into manual amendments (the delay in tackling this was criticised as a weakness).
    - The independence and scope of the Council's wider investigations.
    - The lack of rigour in one of the audits that the Council undertook. (see page 10 of Audit Commission report).
- **9 March 2005, John Mc Donnell MP raises allegations in Adjournment Debate, calling for an independent public inquiry.**
  - **31 March 2005, Cabinet considers the Audit Commission report alongside a response by Planning and Transportation Group, decides:**
    - To endorse the actions taken by senior officers of Planning and Transportation Group.
    - To request that the Working Group set up by the Environment Overview & Scrutiny Committee be asked to investigate the six issues shown in exhibit 5 of the Audit Commission report and, without limiting the review, to determine where possible who made manual amendments, what disciplinary action has been taken and have robust procedures been introduced to prevent or detect this in future.
    - To provide adequate resources to assist this review including finances for external advice if required. A report within 3 months was requested.
    - Also at the same meeting, and as part of the response to an Audit Commission report on ethical standards in Hillingdon, to request the Borough Solicitor and Head of Democratic Services to undertake an investigation into whether there are procedural lessons to be learned as a result of the allegations made by a Member without first exhausting internal procedures.
    - To ask the Corporate Services Overview & Scrutiny Committee to conduct a review of the processes followed by the Councillor and the MP concerned with the allegations.

- **4 March 2005, disciplinary hearings held.** As a result of investigations undertaken in 2004 by Geoff Elliott and a representative of the Audit Commission, disciplinary hearings were held with 2 current members of staff. Chaired by the Director of Education, Youth & Leisure and in the presence of a Personnel Services Officer. For one member of staff, the finding was that there was no case to answer. For the other, there was no formal case to answer; but the member of staff was to be subject to informal management action. Separately, a decision was taken by the Head of Personnel in relation to another member of staff, who had left over a year before, that no disciplinary hearing or other action could be taken.
- **10 May 2005, Overview & Scrutiny Co-ordinating Committee considers Cabinet's requests.** Decides to approve and forward the requests to the Planning Performance Working Group and Corporate Services OSC. Requests that these bodies be informed of the remit of Overview & Scrutiny and that the reviews cannot seek to be judgemental or disciplinary in nature. Asks that legal guidance be provided throughout the reviews.
- **14 June 2005, Environment Overview & Scrutiny Committee consider Cabinet's request.** Decides that the Working Group set up by the Environment Overview and Scrutiny Committee should investigate the issues identified in Cabinet's request and should give priority to responding to Cabinet's request before tackling the Working Group's original terms of reference and that the Working Group should produce an interim report on Cabinet's request.
- **7 September 2005, Planning Performance Working Group hold first review meeting.** Following preparatory work in July and August.



# Appendix 5: Report to Cabinet on 31 March 2005 on the Audit Commission's 31 January 2005 report.

## **REPORT OF AUDIT COMMISSION INTO ALLEGATIONS OF IRREGULARITIES IN DEVELOPMENT CONTROL STATISTICS**

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## **CABINET ITEM 2**

*WITH THIS REPORT*

*Contact Officer: Dorian Leatham  
Telephone: 01895 250569*

### **SUMMARY**

This report responds to the report and findings of the Audit Commission in respect of allegations of past irregularities in the development control statistics of this Council. It comments upon the findings of the report and, where appropriate, it notes the action taken in light of the investigations into the alleged irregularities.

The report of the Audit Commission, which was commissioned by the ODPM and is, by definition, independent, is considered to be both fair and reasonable. As such it is accepted.

The report of the Audit Commission concludes a detailed and thorough investigation of the alleged irregularities and now allows the Planning and Transportation Group to move on and proceed to implement further improvements in the services it provides.

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### **RECOMMENDATIONS**

That Cabinet

- (1) Notes the contents of both this report and the attached Audit Commission report (Appendix A),**
  - (2) Endorses the actions taken by senior officers of the Planning and Transportation Group to seek to avoid any further allegations arising, and**
  - (3) Authorises the Chief Executive to write to the Audit Commission to thank the appropriate officers for their detailed, thorough and considered investigation of the alleged irregularities**
-

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## REASONS FOR OFFICER RECOMMENDATION

To ensure Members are adequately informed of the Audit Commission report and findings, to set out the responses to the issues raised and to provide details of the actions taken as a consequence of the allegations.

## OPTIONS AVAILABLE

It would be contrary to Council procedures and inappropriate to provide other than full details of the Audit Commission report and responses to its contents and findings.

## INFORMATION

### Background

1. The context for the investigations undertaken by the Audit Commission is set out in the Introduction to the Audit Commission report (on Page 1). In essence, in January 2004, the ODPM drew the Audit Commission's attention to allegations of this Council misreporting its development control statistics. The allegations had been brought to the attention of the ODPM by a local MP, who had in turn been approached by a Councillor.

### Issues

2. The issues or allegations which the Audit Commission investigated are recorded on pages 5 and 6 and again on page 12 of the Audit Commission's report. The issues and audit findings, as well as comments on the findings, are as follows:

**Issue 1:**

*Development control performance, as recorded by BVPI 109, was in some delegated cases being reported by reference to the date of approval of the decision, rather than the date of counter-signing (the 'three-box issue').*

**Audit Findings:**

*This appears to be the case in around 11 per cent of delegated decisions, although in only a very small number of cases does this appear to have resulted in a case that had missed its expiry date for BVPI 109 purposes being incorrectly reported as achieving it.*

**Comments:**

- The use of the date of signature in the second rather than the third box on the delegated report proforma top sheet arose from the belief amongst certain staff that this represented the key date as far as the precise moment an application was determined under delegated powers. This misunderstanding was a consequence of long-established procedures which required only two signatures - that of the case officer and Team Manager - on a delegated case.
- The practise of interpreting the date of signature in the second box as the key decision on delegated cases was discovered and immediately terminated by

the current senior management team in July 2003.

- The three-box system for the signing-off of delegated cases, which the current senior management team introduced in late 2002, is recognised as good practice by the Audit Commission.

**Issue 2:**

*The date of approval and / or counter-signing was in some cases being manually amended to show an earlier date than was actually achieved.*

**Audit Findings:**

*There is evidence of manual amendments to delegated decision records. In a number of cases, this had resulted in BVPI 109 targets being met for applications that otherwise would not have been. Having regard to the circumstances, it is difficult to conclude other than that a number of cases do appear suspicious - possibly in the order of two to four per cent of total cases. The Council is to carry out further work on the manual amendments.*

**Comments:**

- As is stated in the Audit Commission report, it is a subjective matter how many of the manual adjustments that were identified merit the description 'suspicious'. Although 49 out of 876 cases were deemed to have adjustments that were significant, re-examination with a less cautious approach reduces 49 cases to approximately 17 cases. On the basis that only 17 cases can be confidently described as suspicious, a mere 1.94% of cases determined between September 2002 and February 2004 can be said to have had significant manual adjustments.
- Whilst any date adjustments have to be considered inappropriate - whether administrative carelessness or otherwise - they are considerably less important in the accurate reporting of development control statistics than the error the Council was making up until February 2004 in basing its quarterly returns on the date of decision rather than the date of dispatch of decision notices. This is acknowledged in the Audit Commission report together with the fact that misreporting had taken place for many years - estimated by officers to be at least 17 years, and well before the current senior management team was appointed - and that Hillingdon is far from unique in this respect. In excess of 30 local planning authorities have faced such difficulties.

- As soon as the reporting error was identified revised statistics were produced as far back as was feasible (to April 2001). Furthermore, the error was brought to the immediate attention of the ODPM, GOL and the Audit Commission, as well as Councillors by members of the senior management team in the Planning and Transportation Group.
- Detailed instructions have been issued to the relevant staff on the need to sign and date all application paperwork precisely and unambiguously at all times. Compliance seminars have also been held with all staff on this matter. All new staff are provided with these detailed instructions and must attend the accompanying seminar on joining the Planning and Transportation Group.
- Random compliance audits are now undertaken to ensure procedures are being complied with in full.
- In late Summer 2004, after a very thorough audit, the Audit Commission gave a clean bill of health to the Council's revised 2003/04 development control statistics.

**Issue 3:**

*Gaps between the date of delegated decisions and their entry onto Ocella indicated that decisions were being back-dated, given in particular that there were no similar gaps for committee cases.*

**Audit Findings:**

*There are gaps between the dates. However, there is no conclusive evidence that this is indicative of deliberate misreporting, rather than, for example, a reflection of delays in administrative procedures.*

**Comments:**

- Up until March 2004, the majority of decision notices for delegated cases were given the same date as that recorded against the signature in the third box on the delegated report proforma top sheet. As a consequence, if there were significant numbers of applications with resultant delays in the preparation and release of decision notices, there could be gaps of up to several weeks between the dates specified on decision notices and the dates they were posted. Over the same period, that is, up until March 2004, equivalent gaps did not tend to occur with Committee cases. This was probably a consequence of separate, slightly more

streamlined procedures for the preparation of decision notices for Committee cases, the greater involvement of case officers and Team Managers in overseeing the release of such decision notices and, even, pressure from applicants chasing for their decision notice knowing that Committee had made its decision.

- Whilst there were delays in the release of decision notices for delegated cases and some degree of difference between the speed of release of decision notices for delegated cases relative to Committee cases, no evidence has been found that this reflects the back-dating of decision notices of any description. This is confirmed by the Audit Commission report.
- Revised procedures involving (a) the date stamping of decision notices for both delegated and Committee cases, (b) their placement in envelopes and (c) their posting all on the same day were introduced in March 2004 once the gaps between the date of decision notices and the date of release of decision notices had been identified and the relevant staff briefed on the amended procedures.

**Issue 4:**

*Procedures were changed to prevent councillors' (and others') access to planning files and performance information so as to hide irregularities.*

**Audit Findings:**

*Procedures were changed. However, there is no evidence that this was to hide irregularities, rather than to quality assure information provided to councillors or put into the public domain (for example, on the website).*

**Comments:**

- Councillors and others have never been denied access to case files. The only remotely relevant adjustment to procedures that has ever been instituted in this regard was the instruction from the Head of Service that requests for application files go through her PA so that they would be provided promptly and efficiently. Equally Councillors have never been denied information regarding performance.
- The changes that were made in late 2003 regarding information on applications on the Council's website were prompted by the discovery by members of the senior management team that inadequate procedures had been put in place to preclude confidential

documentation entering the public domain. In fact Members were given the opportunity to have access to Ocella via their Group offices in February 2003.

- In addition to the introduction of detailed requirements as to what can and cannot be available for public inspection, intermittent 'mystery shopping' is undertaken to confirm compliance in this regard,

**Issue 5:**

*Officers' concerns about irregularities had been raised at a union meeting.*

**Audit Findings:**

*We have been informed that concerns were raised at a union meeting in November 2002. We have also been informed that staff were given the opportunity to provide supporting evidence, but that none was provided. In addition, no minutes of the meeting have been identified. In the circumstances, it is not possible to conclude as to what weight should be given in this respect.*

**Comments:**

- In the absence of any documentation to support this allegation, it is simply not possible to attach any weight to it whatsoever.

**Issue 6:**

*Management appeared to have discussed using the date of decision, rather than the date of despatch of decision, for reporting purposes in October 2001.*

**Audit Findings:**

*An email setting out a number of ideas to improve development control performance considered at team leaders' meeting in October 2001 notes that there is 'no need to wait for dec[ision] to go out, the date of signing off is when the app[lication] was cleared'. Having regard to those officers present at the meeting, and to those officers to whom the email was sent (or copied), this could be read to indicate the explicit discussion and approval of a change to the use of the date of decision (as distinct from the date of despatch of decision) by the department's senior managers. However, officers interviewed could not recall the specific discussion of this issue. There is no evidence that practice changed following this meeting in this regard, as performance was already being monitored / reported by reference to the date of decision, rather than the date of despatch of decision - and had been, so far as we have been able to ascertain, for a number of years. It is therefore unclear why this matter was discussed. In these circumstances, it is not possible to conclude as to what weight should be given to the*

email.

Comments:

- This email is considered to represent a partial and inaccurate record of discussions amongst service managers, the majority of whom have now left the Council. More importantly, as is acknowledged in the Audit Commission report, it did not prompt any changes to long-established procedures for reporting the Council's development control statistics to Government. It therefore makes no sense to give any weight to this email. Furthermore the 'Action Plan' prepared immediately after the meeting with the intention of securing much needed improvement in development control performance makes no mention of such matters.

3. Over and above recording the allegations and accompanying findings, the Audit Commission report expresses reservations about three particular issues: -

**(a) The Council has only recently undertaken investigations into manual adjustments to dates of decision (Page 3)**

Delays have arisen from the careful consideration of the evidence available and then the conscious decision to await the findings of the Audit Commission report. However, the requisite disciplinary procedures have now been implemented in respect of the relevant officers, although one key member of staff left the Council before the investigations of the Audit Commission commenced fully.

**(b) The independence and scope of the Council's wider internal investigations (Page 4)**

The Head of Planning and Transportation was chosen to lead the investigations as she is considered a wholly trustworthy officer and because the complexities of the matters necessitating investigation required a senior officer with substantial planning expertise.

**(c) The lack of rigour displayed in one of the various audits the Council undertook (Page 10).**

The reservations of the Audit Commission are accepted. However, as the Audit Commission report acknowledges, this was *not a deliberate attempt to mislead* and there were *severe work pressures* within the Group at the time of the Audit.

## CONCLUSIONS

Careful consideration of the Audit Commission report reveals various important and in part positive comments about the Planning and Transportation Group. These include:

- (A) Over and above the full co-operation and *assistance* given by Council officers to the Audit Commission (3<sup>rd</sup> para., Page 2), the Council was already investigating and taking action to rectify irregularities it had identified before the Audit Commission commenced its investigations (3<sup>rd</sup> para., Page 6). The Audit

Commission acknowledges the *considerable amount of investigatory activity* the Council has undertaken itself (2<sup>nd</sup> para., Page 9) and the *scrupulous records* it has maintained of its auditing (1<sup>st</sup> para., Page 10).

- (B) *The Council has acted promptly to revise its systems to report its development control performance on a proper basis* (2<sup>nd</sup> para., Page 4).
- (C) The *broad findings* from the investigations undertaken by the Head of Planning and Transportation accord with those of the Audit Commission (3<sup>rd</sup> para., Page 4).
- (D) The Audit Commission is *not proposing undertaking any further work* regarding the allegations (3<sup>rd</sup> para., Page 4) beyond that of monitoring the processes and outcomes of the further work of the Council regarding manual adjustments to the dates certain delegated cases were signed-off (5<sup>th</sup> para., Page 4).
- (E) Although the planning delivery grant award for 2003/04 was based upon inaccurate statistics, various other local planning authorities have since been found to be wrestling with exactly the same difficulties (4<sup>th</sup> para., Page 3). The grant award for 2004/05 was based upon accurate statistics and the Council's revised figures for 2003/04 have been given a clean bill of health by the Audit Commission.
- (F) *There is ..... no evidence that any individual officer or Councillor gained a pecuniary advantage from the amendments to development control records, or that the purpose of (the) amendments was to secure a pecuniary advantage for the Council* (1<sup>st</sup> para., Page 4). They are deemed not to have resulted in any change to the Council's entitlement to grant (6<sup>th</sup> para., Page 13).
- (G) In addition to ODPM consultants describing development control performance as *very encouraging* (1<sup>st</sup> para., Page 9), the Audit Commission also refer to *significant improvement* (4<sup>th</sup> para., Page 3) with the Council *now exceeding* the targets set for it by the ODPM for 2004/05 (4<sup>th</sup> para., Page 3). Although this report has been prepared before the close of 2004/05, there is every indication that the Council will exceed national targets for BVPI 109 rather than merely its 'Standards Authority' targets.

## **CORPORATE CONSULTATIONS CARRIED OUT**

### **Legal Comments**

The Audit Commission undertook its investigation into the alleged irregularities in development control statistics pursuant to its powers under the Audit Commission Act 1998 and the Code of Audit Practice which has received the approval of Parliament.

Neither the above Act nor the Code of Practice allows the Audit Commission to substitute its judgment for that of the Council or its officers in the lawful exercise of their discretion.

*The Audit Commission's report has been forwarded to Leading Counsel for his comments and observations. Leading Counsel's views are that an independent investigation has now been undertaken which has dealt with all matters relating to the*



*alleged irregularities in development control statistics and therefore there is no need for any further independent Inquiry to be held.*

Leading Counsel has also clearly stated that the Audit Commission's findings are an exoneration, rather than a condemnation, of the Council and its officers.

## **Financial implications**

There have been significant indirect financial impacts in terms of the time that a significant number of senior managers have had to give to the protracted investigations of the allegations.

## **Corporate Financial Comments**

As stated in the body of the report, there are no direct financial implications arising from the recommendations outlined above. The Audit Commission's report at Appendix A indicates that although some inaccurate data had been used to calculate the Council's Planning Delivery Grant allocation for 2003/04, no retrospective changes will be made based on the updated data.

In future any decisions to undertake internal investigations into similar issues will need to have regard to the issues raised by the Audit Commission in terms of the perceived, as well as the actual, independence of those undertaking the investigation.

## **BACKGROUND DOCUMENTS**

Report of Audit Commission - Allegations of irregularities in development control statistics (Attached as Appendix A at the end of these appendices)

## Appendix 6: Audit Commission Report “Allegations of irregularities in development control statistics” 31/01/05

On following pages.

# Allegations of irregularities in development control statistics

Hillingdon London  
Borough Council

## INSIDE THIS REPORT

### PAGE 2

#### Summary report

- Introduction
- Background
- Audit approach
- Main conclusions

### PAGE 5

#### Detailed report

- The guidance
- Local systems
- The allegations
- The Council's internal investigations
- Council development control performance
- Audit consideration of the matters raised

<b>Reference:</b>	FINAL
<b>Date:</b>	31 January 2005

## Introduction

In January 2004, the Office of the Deputy Prime Minister (ODPM) drew our attention to allegations of misreporting development control statistics by Hillingdon London Borough Council (the Council). The allegations had been brought to the attention of the ODPM by a local MP, who had in turn been approached by a councillor. The ODPM considered that, on the basis of the evidence presented, there was a propriety issue that warranted the referral of the allegation to us as the Council's external auditor.

This report sets out the results of our consideration of the matters referred to us by the ODPM in accordance with our responsibilities under the Audit Commission's Code of Audit Practice.

We would like to acknowledge the assistance given to us during the course of our consideration of the matters referred to us.

## Background

The Council is required to report its development control performance via best value performance indicator (BVPI) 109 by reference to the time it takes to decide major, minor and other planning applications. It has been alleged that the date of decision has in some cases been deliberately falsified to show a better level of performance than the Council has actually achieved, and that the Council has been fraudulently rewarded as a result.

The Council is a standards authority – that is an authority that has not met the ODPM's targets for deciding planning applications. Nevertheless, the Council's reported performance has improved since 2000/2001 and this improvement has resulted, in part, in the award of £320,000 planning delivery grant for 2003/2004 from the ODPM.

Planning performance as measured by BVPI 109 is assessed as part of the environment service block for the purposes of the Council's comprehensive performance assessment (CPA). The Council received an assessment of one out of four (i.e. the lowest assessment) for its environment service block in the 2002 and 2003 CPAs. This has improved to two out of four in the 2004 CPA.

## Audit approach

The audit approach adopted has comprised:

- Reviewing the Council's internal investigations into the way in which development control performance has been reported
- Undertaking our own testing of the Council's development control records
- Interviewing a number of past and present Council officers
- Meeting the councillor who had raised the allegation and the MP via whom the allegations were raised.

We have been provided with, and have obtained in the course of our own enquiries into the matters raised, a substantial amount of information relating to the allegations and in respect of the Council's development control performance. We have considered carefully that information in our capacity as the Council's external auditor, whether or not it is referred to explicitly in this report.

We undertake our work in accordance with the Audit Commission Act 1998 and the Code of Audit Practice approved by Parliament. Other than in forming an opinion on the Council's annual financial statements, our responsibilities focus on the adequacy of the overall arrangements that the Council has put in place in certain areas, including those in respect of the preparation of specified performance indicators and the adequacy of arrangements for securing economy, efficiency and effectiveness in the use of resources. The main focus of our role is the Council's arrangements, not the acts or omissions to act of individual officers or councillors. To the extent that it is appropriate, we seek in undertaking our work to rely on work undertaken and enquiries made by the Council or its officers.

It is not our role as auditors to substitute our judgement for those of the Council or its officers in the lawful exercise of their discretion. We cannot therefore be prescriptive in the steps that the Council should take in response to weaknesses identified by our work or indeed by any other means.

## Main conclusions

We have considered the matters referred to us having regard to our statutory responsibilities under the Audit Commission's Code of Audit Practice as set out above. Within those constraints, and on the basis of the work carried out, we have concluded that:

- The Council has misrepresented its development control performance over a number of years by reference to the date of decision, rather than the date of despatch of decision. This has a significant impact on the actual performance achieved by the Council. Indeed, it is a far more significant matter, in terms of its impact on reported performance, than any of the matters originally referred to us. Whilst this misreporting is not acceptable, we have not concluded that it was a deliberate act, whether by the Council or its officers or councillors. Indeed, the approach appears to pre-date the current information system used to record development control performance and the current planning management team. The Council is not unique amongst local authorities in having erroneously reported performance on this basis. Performance on an amended basis is showing significant improvement, albeit that the Council is coming from a very low base, and the latest available information indicates that the Council is now exceeding its ODPM targets
- The Council received £320,000 planning delivery grant for 2003/2004 from the ODPM, in part reflecting improvements in its development control performance that had been calculated by reference to the date of decision, rather than the date of despatch of decision. Revised information has been resubmitted to the ODPM. The ODPM has confirmed that it will not seek any recovery for 2003/2004 and that grant for 2004/2005 has been paid on the basis of the resubmitted data
- Notwithstanding that reporting performance by reference to the date of decision (rather than date of despatch of decision) was of itself wrong, there is evidence that the Council has used the wrong date to report the decision (the date of the Team Manager, rather than Section Manager, sign off) in a number of cases (estimated to be of the order of 11 per cent of cases). Nevertheless, this appears to have resulted in improved reported performance in only a very small number of cases in the period between September 2002 and February 2004
- Similarly, and again notwithstanding that using the date of decision to report performance was of itself wrong, there is evidence that the date of decision has been manually amended in a number of cases. The Council has only recently undertaken to investigate this issue in detail. This represents a weakness in the Council's response to these matters that is now being rectified. It appears that such manual amendments have resulted in improved reported performance in the order of two to four per cent of cases

between September 2002 and February 2004. There is, however, no evidence that any individual officer or councillor gained a pecuniary advantage from the amendments that have been made to the Council's development control records, or that the purpose of those amendments was to secure a pecuniary advantage for the Council

- Following the identification of the matters considered in this report, the Council has acted promptly to revise its systems to report its development control performance on a proper basis.

Whilst we have some reservations over the independence of the Council's internal investigations, its broad findings have been confirmed during the course of our own consideration of the matters referred to us. Whilst we also have some reservations over the scope of those investigations, we are not proposing undertaking any further work, having regard to:

- The Council's proposed further work on the manual amendments
- Our responsibilities under the Code of Audit Practice
- The costs that would thereby be incurred on the public purse
- The likelihood of any conclusive findings over and above those already set out in this report.

In reaching this conclusion, we have, in particular, had regard to the action that the Council has taken to revise its systems to report properly its development control performance on an ongoing basis. We will, however, monitor carefully the process and outcomes of the further work proposed by the Council.

## Status of our reports to the Council

*Our reports are prepared in the context of the Statement of Responsibilities of Auditors and Audited Bodies issued by the Audit Commission. Reports are prepared by appointed auditors and addressed to councillors or officers. They are prepared for the sole use of the audited body, and no responsibility is taken by auditors to any councillor or officer in their individual capacity, or to any third party.*

## The guidance

Development control performance is reported by reference to BVPI 109. This comprises three separate parts:

- Percentage of major applications determined in 13 weeks
- Percentage of minor applications determined in eight weeks
- Percentage of other applications determined in eight weeks.

Performance on BVPI 109 is reported quarterly to the ODPM via the PS1 and PS2 returns.

Performance is in each case calculated from the day on which a valid planning application is received – day zero - to the date that the decision notice is dispatched to the applicant. The ODPM sets targets for deciding each of the three categories of applications.

Planning delivery grant is paid, in part, by the ODPM on the basis of a council's success in improving its BVPI 109 performance.

## Local systems

Applications are approved by committee or by officers under delegated authority. It is the delegated cases that are the subject of the allegations made.

For delegated cases, three separate officers sign and date a top-sheet (headed 'delegated decision') that is attached to the front of a pro-forma report that specifies the recommendation on an application and that also contains details of consultation responses, key planning issues, conditions (or reasons for refusal), etc. Three separate boxes are required to be signed and dated by the case officer, the Team Manager and the Section Manager. There have been several refinements to this top-sheet since it was first introduced. The date of the Section Manager sign-off (the third box) has until recently been used to report performance against BVPI 109.

The file is then passed to an administrative officer who produces the decision notice and dispatches it to the applicant.

All dates are logged on the department's IT system (Ocella).

Ocella is used to generate the information for the quarterly returns that are submitted to the ODPM for performance monitoring purposes.

## The allegations

The broad allegations originally brought to our attention by the ODPM were that:

- Development control performance, as recorded by BVPI 109, was in some delegated cases being reported by reference to the date of approval of the decision, rather than the date of counter-signing (the 'three-box issue')
- The date of Team Manager and/or Section Manager sign-off was in some cases being manually amended to show an earlier date than was actually achieved
- Gaps between the date of delegated decisions and their entry onto Ocella indicated that decisions were being back-dated, given in particular that there were no similar gaps for committee cases
- Procedures were changed to prevent councillors' (and others') access to planning files and performance information so as to hide irregularities



- Officers' concerns about irregularities had been raised at a union meeting.

Evidence was provided via the ODPM that appeared to support a number of these allegations, in particular with regard to the 'three-box issue' and the manual amendment of development control records.

The Council was already investigating matters relating to the first two items that had been raised by other routes. During the course of its investigations, the Council discovered that it had been misreporting its performance for a number of years far more widely than had been alleged as the Council was using the date of decision, rather than the date of despatch of decision, for reporting purposes.

We subsequently received further information via the ODPM that indicated that management appeared to have discussed using the date of decision, rather than the date of despatch of decision, for reporting purposes in October 2001.

## The Council's internal investigations

In January 2004, the Head of Planning & Transportation commissioned Internal Audit to undertake a review of a sample of 100 planning files from 2002 to date. This followed a review of six files requested by a councillor that indicated that there were gaps between the dates of the signatures of the Team Manager and Section Manager and that the date of the decision notice was (incorrectly) the earlier date. This audit – the actual sample was 80 files (i.e. 20 files selected for testing were not located) – indicated that performance was being misreported in slightly less than ten per cent of delegated decisions. Internal Audit concluded that, based on the limited sample tested, its 'findings do not show any evidence of irregularity which would suggest a deliberate breach of the established procedures in respect of the dates planning applications are checked, reviewed and approved and the date the final decision notice is made'.

Following this, an extended review was commissioned by the Head of Planning & Transportation covering approximately 20 per cent of cases determined between September 2002 and February 2004. This review was undertaken by managers from the Planning & Transport Service.

As noted above, during the course of the second internal investigation, the Council identified that the date of despatch of decision – the required date for reporting development control performance – was not being used. This was a far wider issue than the 'three-box issue' as, in general terms, it affected all reported performance. The Head of Planning & Transportation reported this discovery to the Chief Executive, GOL, the ODPM and the District Auditor.

A further investigation was therefore commissioned by the Chief Executive and the Corporate Director for Environmental Services into:

- The 'three-box issue'
- The wider issue related to not using the date of despatch of decision for reporting purposes.

This investigation was undertaken by the Head of Planning & Transportation and a representative from Personnel. It comprised interviews with ten Council officers.

The investigation concluded as follows:

<b>EXHIBIT 1: KEY FINDINGS OF THE COUNCIL'S INVESTIGATIONS</b>	
<b>Issue</b>	<b>Key findings</b>
The 'three-box issue'	<p>None of the officers interviewed stated or acknowledged in any way that they were aware that the three-box signature requirements were not being followed correctly.</p> <p>No quality assurance arrangements – or probity checks - for this or other development control processes and procedures had been considered necessary. The Head of Planning &amp; Transportation had received verbal assurance that proper procedures were being followed.</p>
Use of date of decision, rather than date of despatch	<p>The service has been producing figures based on a decision date for at least 15 years.</p> <p>Ocella was programmed to produce data based on the decision date.</p> <p>The previous IT system did not have the facility to provide the information on a despatch date, only on the decision date. When the IT system was replaced by Ocella, the information was migrated using the decision date as the key date for producing performance reports.</p> <p>Of the ten staff interviewed by the Head of Planning &amp; Transportation, only one officer recognised the requirement of the ODPM for the performance to be reported by reference to the despatch date. However, not all the officers interviewed were planners who would necessarily have a detailed understanding of ODPM requirements.</p> <p>Again, the Head of Planning &amp; Transportation had received verbal assurance that proper procedures were being followed.</p> <p>Once the mistake was discovered, immediate steps were taken to correct the reporting. The ODPM and the District Auditor were informed of the error. Corrected figures were submitted to the ODPM as soon as they were available.</p> <p>No one individual carried full responsibility.</p>

One further internal investigation was commissioned by the Head of Planning & Transportation following work undertaken by ourselves. We performed a programme of testing of the Council's development control records, mainly to confirm that we could rely on the Council's own testing (see below). However, current files were also selected to test officers' assurances that proper procedures had now been implemented. In one of the sample tested (dated February 2004), we identified evidence that dates continued to be amended manually. When this case was brought to the attention of the Head of Planning & Transportation, she commissioned two Planning & Transportation Service managers to review a sample of decisions in February and March 2004. This covered a sample of 236 delegated cases (or 57 per cent of decisions in the sample period). A total of 27 case files (or nine per cent) contained errors – albeit mainly minor administrative or clerical errors. Further guidance has been issued to staff to address the issues arising. The specific case identified by us was also investigated and two officers were interviewed by the Head of Planning & Transportation and a representative from Personnel. No wilful malpractice was identified.

The Council has taken a number of actions to address the issues arising from the separate investigations considered above:

**EXHIBIT 2: SUMMARY OF THE COUNCIL'S ACTIONS IN RESPONSE TO THE FINDINGS OF ITS INVESTIGATIONS**

- Corrected figures from April 2001 have been produced and submitted to the ODPM
- A revised programme has been implemented that reports performance as recorded in Ocella by reference to the date of despatch of decision notice
- Application stages are monitored daily (from February 2004)
- Monthly checks are carried out on all application decisions in preparation for quarterly PS1 and PS2 returns
- The despatch date screen from Ocella is now printed and put on each case file once the decision has been made and despatched
- Clear guidance has been provided to all staff on procedures and compliance
- Compliance seminars for all professional and administrative staff have been held
- Random compliance checks are undertaken on a weekly basis without reference to any development control officers or staff
- External consultants, commissioned by the Head of Planning & Transportation, have reviewed and validated (other than for one relatively minor issue that has subsequently been addressed) the new processes for recording and reporting development control performance.

## Council development control performance

The assessment of the Council's performance on the proper basis required by the ODPM has a significant impact on the Council's reported development control performance as set out in Exhibit 3.

**EXHIBIT 3: ANALYSIS OF COUNCIL'S PERFORMANCE**

Category	Year	Target (per cent)	Performance in best value performance plan (per cent)	Revised performance (per cent)
Major applications	2001/2002*	50	44	17
	2002/2003	50	12	14
	2003/2004**	50	44	46
	2004/2005***	52	N/A	67
Minor applications	2001/2002*	55	44	11
	2002/2003	55	47	9
	2003/2004**	55	32	32
	2004/2005***	58	N/A	65
Other applications	2001/2002*	70	44	23
	2002/2003	70	68	18
	2003/2004**	70	36	36
	2004/2005***	73	N/A	77

\* Only a single indicator (covering all planning applications) was required to be reported for 2001/2002

\*\* The 2004/2005 best value performance plan includes 2003/2004 performance on the revised basis

\*\*\*Unaudited performance for the first two quarters of 2004/2005 only

The recent evaluation of the Council's performance by external consultants on behalf of the ODPM commented that 'despite the recent problem with the data and the very low levels of performance, there has been underlying progress in improving performance and figures provided for Q[quarter] 4, which includes a period since the delays in issuing decision notices was uncovered, are very encouraging'. This is reflected in the revised performance figures for 2003/2004 included in Exhibit 3 above. The exhibit also shows that performance in 2004/2005 has continued to improve so that the Council is now exceeding its ODPM targets.

## Audit consideration of the matters raised

### The Council's testing of its development control records

As indicated above, the Council has undertaken a considerable amount of investigatory activity into the way in which it has reported its development control performance. At the time that the allegations were referred to us by the ODPM, much of that activity was either in progress or was planned. Mindful of the costs of our consideration of the matters referred to us, we have therefore sought, in the first instance, to rely on the Council's own internal investigations wherever possible. We have sought to confirm our ability to place reliance on those investigations by:

- Assessing the scope and conduct of the Council's investigations
- Undertaking our own testing of development control records to verify the work performed by the Council.

We tested a sample of planning applications, including a number included in the Council's own sample, to assess the integrity of the Council's work – in particular, its judgements on whether the wrong date of decision had been used (the 'three-box issue') and whether records had been amended - and our ability to place reliance on it. There were no issues arising on a case by case basis, subject to our identification of one manual amendment that had been made after the revised procedures had been introduced (see above).

In addition, we also undertook an initial review to support the way in which the results of the Council's own testing had been summarised and notified to us. This indicated that the number of cases identified as using the incorrect date (the 'three-box issue') appeared to be significantly understated, whilst there was also some uncertainty over the accuracy of the number of cases with a manual adjustment. In view of the importance of establishing the integrity of the Council's extended review, we therefore undertook further detailed testing of the sample selected. This work identified the following results:

**EXHIBIT 4: SUMMARY OF COUNCIL'S EXTENDED SAMPLE, AS VERIFIED**

	Number of applications reviewed	Number using incorrect date	Number with a manual adjustment
As verified	876	98 (or 11.2 per cent)	152 (or 17.4 per cent)
As originally summarised by the Council	880	5 (or 0.6 per cent)	87 (or 9.9 per cent)

There is a significant difference between the results as originally summarised by the Council and those verified. We have considered whether this is indicative of a deliberate attempt to mislead us as to the extent of the problem identified. In the case of the difference between the number of manual adjustments, this appears to have been a categorisation issue – for example, minor amendments were not counted by the Council in its original categorisation. There is, however, no apparent explanation for the difference in terms of the use of the incorrect date. Nevertheless, having regard to the scrupulous records that the Council maintained of its testing of the sample, the integrity of the audit trail that was presented to us to facilitate our re-testing and the lack of significant impact that the use of the date of the second box appears to have on reported BVPI 109 performance (see below), we have concluded that the erroneous summarisation was not a deliberate attempt to mislead. We also acknowledge the staffing difficulties and severe work pressures in the service at the time the summarised data was provided to us. Nevertheless, that the Council was able to provide such important and sensitive information without adequately quality assuring it is indicative of a significant lack of rigour in the processes it adopted.

These investigations were undertaken to ascertain the extent of misreporting by reference to the 'three-box issue' – that is the use of the date of approving officer signature, rather than the counter-signing date, for reporting performance – and to identify the number of manual amendments being made.

The results, as verified, are shown in Exhibit 4 above. The wrong date (i.e. that of the Team Manager sign off) was being used in an estimated 11.2 per cent of cases, although this incidence reduces over time, with no cases identified after August 2003. However, having regard to the individual cases where the wrong date has been used, in only four cases (less than half of one per cent) did this result in a case that had missed its expiry date for BVPI 109 reporting purposes being incorrectly reported as achieving it. In all other cases, had the correct date been used, the case would still have met its expiry date or would still have missed it (albeit by an increased number of days).

The results also show an unacceptably high number of manual amendments. In a number of these cases, the manual adjustment has brought the date into line with the expiry of the BVPI 109 target date. In other cases, however, the expiry date was already past or some time in the future. However, clearly, manual amendments have been made that have improved the Council's reported development control performance in some cases.

In view of the importance of the manual amendments to the subject matter of the allegations referred to us, we reviewed all cases that bore evidence of amendment, working with a Council officer. This identified 49 cases (or 5.6 per cent) where the manual amendment appeared significant. Again, these showed evidence of reduction over time, with only one case, for example, in 2004. Further analysis was undertaken to exclude those cases where there was no impact on reported performance because, for example, while the date was amended, it still did not meet the BVPI 109 target date. Clearly, it is a subjective matter to then assess whether the amendment was a deliberate attempt to falsely improve performance or to correct, for example, a typographical error. Nevertheless, having regard to the circumstances, it is difficult to conclude other than that a number of cases do appear suspicious – possibly in the order of two to four per cent of total cases. Indeed, the Council's own report on this particular matter (prepared on behalf of the Head of Planning & Transportation for the Chief Executive) concludes that 'there are grounds for suspecting that there were adjustments to the dates certain applications were signed off and this had the intention of having the determination of these cases meeting Government set targets'.

### The processes adopted by the Council for its investigations

The Chief Executive gave the Head of Planning & Transportation the responsibility for undertaking the investigations, and in particular, the interviews of officers. Having considered the subject matter of the allegations referred to us (including its sensitivity) and the evidence available to us, we concluded that an investigation that involved a person who, as head of service, could be seen to have a direct interest in the outcome of the investigation could not be seen to be independent, notwithstanding the involvement of a Personnel officer in the interviews.

We have therefore undertaken further work ourselves having regard to, and within the constraints of, our responsibilities under the Code of Audit Practice. This comprised interviews with officers and former officers of the Council. Whilst, as noted, we have reservations over the independence of the Council's internal investigations, its broad findings have been confirmed during the course of our work.

We recognise that the Council's planning function is performed in a difficult environment in terms of officer/Member relationships. The recent evaluation of the Council's performance by external consultants on behalf of the ODPM concluded that there is a need for clearer roles for Members as policy makers and to show greater cooperation and confidence in officers as implementers of policy. The consultants recommended that the IDEa be engaged to hold discussions and training on officer/Member relationships. It is against this background that the Council has sought to protect its officers, in particular the Head of Planning & Transportation, from further, and in the Council's view, unnecessary, scrutiny, for example in seeking legal advice about the proposed scope and conduct of our work. Nevertheless, the evidence presented to us via the ODPM raised legitimate concerns that required proper consideration.

We also have some reservations over the scope of the Council's investigations, in particular with regard to the apparent manual amendment of development control records in order to show improved performance. We have recommended that the Council should undertake an independent investigation into the manual amendments. The Council is, however, undertaking further detailed investigations of two officers, with hearings to be conducted by a chief officer unconnected with the Planning & Transportation Service and the potential for disciplinary action. As a minimum, the Council needs to ensure that its further investigations follow up with those officers responsible for the 'significant' examples of manual amendments identified in our joint testing with the Council of development control records. The Council will also need to consider its responsibilities in this respect with regard to officers who have left its employment. Should wider governance issues emerge from these investigations, these should also be pursued. We will monitor progress carefully.

The Council has yet to conclude whether, on the basis of its investigations to date, there should be recourse to disciplinary procedures with regard to any officer. That decision must properly be the Council's. Nevertheless, it will need to be informed by the completion of the additional investigations referred to above.

### The matters referred to us

We consider overleaf the main matters referred to us having regard to the Council's investigations and our own work.

## EXHIBIT 5: ANALYSIS OF AUDIT FINDINGS

Issue	Audit findings
Development control performance, as recorded by BVPI 109, was in some delegated cases being reported by reference to the date of approval of the decision, rather than the date of counter-signing (the 'three-box issue')	This appears to be the case in around 11 per cent of delegated decisions, although in only a very small number of cases does this appear to have resulted in a case that had missed its expiry date for BVPI 109 purposes being incorrectly reported as achieving it.
The date of approval and/or counter-signing was in some cases being manually amended to show an earlier date than was actually achieved	There is evidence of manual amendments to delegated decision records. In a number of cases, this has resulted in BVPI 109 targets being met for applications that otherwise would not have been. Having regard to the circumstances, it is difficult to conclude other than that a number of cases do appear suspicious – possibly in the order of two to four per cent of total cases. The Council is to carry out further work on the manual amendments.
Gaps between the date of delegated decisions and their entry onto Ocella indicated that decisions were being back-dated, given in particular that there were no similar gaps for committee cases	There are gaps between the dates. However, there is no conclusive evidence that this is indicative of deliberate misreporting, rather than, for example, a reflection of delays in administrative procedures.
Procedures were changed to prevent councillors' (and others') access to planning files and performance information so as to hide irregularities	Procedures were changed. However, there is no evidence that this was to hide irregularities, rather than to quality assure information provided to councillors or put into the public domain (for example, on the website).
Officers' concerns about irregularities had been raised at a union meeting	We have been informed that concerns were raised at a union meeting in November 2002. We have also been informed that staff were given the opportunity to provide supporting evidence, but that none was provided. In addition, no minutes of the meeting have been identified. In the circumstances, it is not possible to conclude as to what weight should be given in this respect.
Management appeared to have discussed using the date of decision, rather than the date of despatch of decision, for reporting purposes in October 2001	An email setting out a number of ideas to improve development control performance considered at a team leaders' meeting in October 2001 notes that there is 'no need to wait for dec[ision] to go out, the date of signing off is when the app[lication] was cleared'. Having regard to those officers present at that meeting, and to those officers to whom the email was sent (or copied), this could be read to indicate the explicit discussion and approval of a change to the use of the date of decision (as distinct from the date of despatch of decision) by the department's senior managers. However, officers interviewed could not recall the specific discussion of this issue. There is no evidence that practice changed following this meeting in this regard, as performance was already being monitored/reported by reference to the date of decision, rather than the date of despatch of decision – and had been, so far as we have been able to ascertain, for a number of years. It is therefore unclear why this matter was discussed. In these circumstances, it is not possible to conclude as to what weight should be given to the email.

Performance has been misrepresented by reference to the 'three-box issue' and, in a number of cases, the dates of decision have been manually amended, over a number of years. However, the wider issue that performance was reported by reference to the date of decision, rather than the date of despatch, renders these issues less significant, at least in terms of their impact on the Council's reported development control performance.

With regard to that wider issue, it appears that reporting by reference to the date of decision, rather than the date of despatch, has been the Council's approach over a number of years. That approach pre-dates the current information system used to record development control (Ocella) and the current planning management team.

Revised procedures have been introduced with the aim of ensuring that the Council's development control performance will be properly reported on an ongoing basis. The revised procedures introduced by the Head of Planning & Transportation have been the subject of review by external consultants (recommended by the ODPM) commissioned by her. There are no significant findings from that review that have a bearing on our consideration of the matters referred to us.

### Financial consequences

The Council was awarded £320,000 planning delivery grant for 2003/2004 from the ODPM to reflect improvements in its development control performance during the year ended 30 June 2002. It is clear that the improved performance on which the ODPM relied in making this award was overstated. The ODPM has indicated, however, that it will not seek to claw back any of the grant paid for 2003/2004.

The Council has been awarded £223,586 for 2004/2005. This reflects, in part, improvement in the Council's development control performance on major applications in the period October 2002 to September 2003. That performance has been calculated on the basis of the corrected, re-submitted data for that period.

The Audit Commission's Code of Audit Practice requires auditors to consider whether a duty falls on them to refer any possible criminal activities identified during the course of their work to the police. We have identified no evidence that individual officers obtained a pecuniary advantage from the grant obtained from the ODPM. We have identified some cases where records have been manually amended and, as a result, reported performance improved. However, we have identified no evidence that the purpose of such amendments was to secure an increased entitlement to grant. Indeed, having regard to the grant conditions, it is unlikely that the level of resulting improvement identified (of the order of two to four per cent) would have resulted in a change in entitlement to grant.





## Appendix 7: Letter from and note of meeting with Audit Commission staff during this review.

### **Letter from Michael Haworth-Maden, Audit Commission, 20 October 2005**

Ms M Colledge  
Scrutiny Adviser  
Hillingdon LBC  
Civic Centre  
High Street  
Uxbridge  
UB8 1UW

Dear Ms Colledge

### **Allegations of irregularities in development control statistics**

I am writing to follow up on our meeting on 14 October 2005 where we discussed my above report. At that meeting, I noted that I would consider whether I needed to write to clarify the comments made at the meeting. You have also now helpfully provided me with your note of the meeting. In this context, I would comment as below. I suggest that you circulate this letter to Overview and Scrutiny with your note.

### **The statutory framework**

As I said at our meeting, it is important that the work undertaken, and indeed the comments made at the meeting, are seen in the context of the statutory role of the auditor. This, as your note sets out, is covered in the Audit Commission Act 1998 and the Code of Audit Practice approved by Parliament. Auditors can only operate within the limitations of their statutory powers. I drew your attention to the paragraph at the top of page 3 of my report in this respect. Finally, I drew your attention to the Statement of Responsibilities of Auditors and Audited Bodies published by the Audit Commission, which sets out clearly the respective responsibilities of the external auditor and the Council.

My work was undertaken solely for the purposes of my audit. I noted that I had already attended Cabinet on 31 March 2005 to present my report, and had at that meeting also answered the questions that administration and opposition members had put to me. I indicated, however, that I was happy to meet you in order to help Overview and Scrutiny to focus its work. However, my findings and conclusions, having regard to my role and responsibilities, are as set out in my report and it is to these that Overview and Scrutiny should refer.

I also commented that my report indicated that we would monitor carefully the process and outcomes of the Council's further work on the subject matter of the report. I therefore also saw the meeting as part of that monitoring process, albeit that this was a matter for my successor. I noted in that respect that I was no longer the District Auditor for the Council. I therefore had no ongoing locus in respect of the matters raised in my report and, indeed, any comments that I was to make had to be seen in that context.

I am sorry to cover this again at such length, but it frames the context for my work – and also for the comments made at our meeting.

## Your questions

I have used below the numbering in your note.

1. I obtained sufficient cooperation for the purposes of my audit – that is, for the consideration of the matters drawn to my attention by ODPM, having regard to my statutory responsibilities.

2. I considered the matters brought to my attention having regard to my responsibilities which are set out in the paragraph referred to. The scope and nature of my enquiries are set out in my report.

3. My duty as auditor is to consider information brought to my attention and determine, in the exercise of my discretion, the scope and nature of any further work, mindful of my audit responsibilities. To the extent that matters appeared to be relevant to my responsibilities, I considered those matters and undertook such enquiries as I deemed appropriate. I would emphasise that the matters were raised with me by the ODPM rather than directly. Nevertheless, I met with the MP who had raised the matters with the ODPM and a councillor who had raised concerns with him. I considered the matters raised at that meeting in the conduct of my audit, in so far as they were relevant to my functions.

4. The period is reasonable and justified. The matters raised were complex and required considerable detailed consideration. In the course of my enquiries, additional matters were raised with me. My enquiries themselves identified new lines of enquiry. I had to undertake interviews with various persons. I also consulted on my draft report with the Council – in all, three drafts were issued - and considered the detailed representations made in response.

5. The scope and nature of my work, and my findings, are as detailed in my report. It was a review of the Council's processes and procedures in respect of an indicator as defined by the ODPM, rather than a comparative review of the Council's arrangements with those of other authorities. However, as the Council's use of the date of decision, rather than the date of despatch of decision, was systematic, I considered it appropriate context to include the comment referred to in the report – that is that the Council was not unique in this respect.

So far as the other two matters were concerned – that is the use of the Team Manager sign off and the manual amendments – these were failures in the way the Council's stated system was working in practice. The issue of comparison is therefore not relevant.

6. It is important to emphasise the relative responsibilities of the Council and the auditor. The Council is responsible for reporting properly its performance information and for quality assuring it. I indicated that our work was performed on an annual basis solely for the purposes of my audit, to a scope and nature specified by the Audit Commission. The relevant indicator was one of the order of 150 tested. It was reviewed on the basis of a risk assessment, with some further proportionate testing of systems and records. So far as I am aware, this work had not identified any significant issues prior to 2004.

7. As above.

8. It is for the Council to determine the nature of the action it should take, rather than for the District Auditor to prescribe it. For this reason, the precise scope and nature of the work the Council should undertake was not specified in my report. I did, however, refer you to page 3 (the first and second paragraphs) and also page 11 (the fourth paragraph) of the report in this respect.

9. No comment. This is a matter for the current District Auditor.

10. No comment.

11. No comment.

**Any other comments**

I have enclosed a copy of the current Code of Audit Practice and the Statement of Responsibilities of Auditors and Audited Bodies as I undertook to do.

I trust these further comments and clarifications are helpful to you and to Overview and Scrutiny in its work.

Yours sincerely

**Michael Haworth-Maden**  
**District Auditor**

cc Mr M Searle, Audit Manager

**Questions to the Audit Commission on its report “Allegations of irregularities in development control statistics” and responses from Michael Haworth-Maden and Martin Searle at a meeting with Maureen Colledge on 14 October 2005.**

Michael Haworth-Maden prefaced the meeting by saying his consideration of the matters brought to his attention by the Office of the Deputy Prime Minister was undertaken in accordance with the Audit Commission Act 1998 and the Code of Audit Practice approved by Parliament. He is happy to help this overview and scrutiny review, but what he has to say is largely contained within his report on the allegations. In answering questions, he will cross-refer to relevant sections in the report.

*Q1. Were you satisfied with the extent of co-operation that your investigators received from Hillingdon? If not, what were the problems?*

A1. Michael considered the information sufficient for considering the matters drawn to his attention by ODPM. He had acknowledged the assistance given to him in paragraph three of the Introduction to his report.

*Q2. Were there any gaps or missing information that meant you were not able to investigate fully the allegations? If yes, please explain what these were?*

A2. Michael is satisfied with the scope and nature of the work undertaken. The limitations on his consideration of matters are set out in paragraph one of page three of his report. Michael also referred to page eleven which discusses the scope of the work undertaken in relation to the manual amendments and the expectation that the Council should investigate these further.

*Q3. To what extent were those making allegations able to discuss these with your investigators and have their concerns investigated?*

A3. As his report says at the bottom of page 2, he met the councillor who raised the allegation and the MP via whom the allegations were raised.

Asked when this was, he replied it was in the summer of 2004.

Asked about the concerns raised in Parliament on 8 July 2004 by John McDonnell MP, that the District Auditor had not approached him or Councillor Janet Duncan, he replied that meeting individuals was a matter of discretion and was done as deemed necessary. This had been a complex matter with further matters brought to his attention after the original matters were raised by ODPM. He felt July was an appropriate time for the meeting in relation to these considerations.

*Q4. The period from the ODPM request to the production of the report was about a year. This might be thought a lengthy period - was there any particular reason for this or was the period reasonable in the circumstances?*

A4. Michael said that, as mentioned above, part of the reason was that further matters were brought to his attention by ODPM – the end of the first paragraph of page six of his report refers to this.

Council officers were also conducting reviews during the period, one of which uncovered the erroneous use of the date of decision rather than the date of despatch of decision. Therefore the consideration was in effect an iterative one. He had received a great deal of information during his consideration of the allegations.

For all these reasons, he felt the period was reasonable.

*Q5. How different from other councils were the procedures that your investigators found that Hillingdon was using to record and report its development control performance?*

*Would you please comment on this in relation to each of the following:*

- use of the date of decision rather than date of despatch of decision (your report on page six mentions that the council was not unique in this – could you provide more detail?)*
- evidence that in around 11% of cases investigated the date of the Team manager rather than the Section manager sign off had been used*
- evidence that in a number of cases the date of decisions had been manually amended.*

A5. Michael wished to make it clear that his consideration of the allegations was concerned with Hillingdon council alone and not a comparison with other local authorities.

In relation to page three of his report, he refers, in connection with the use of date of decision rather than date of despatch of decision, to:

“The Council is not unique amongst local authorities in having erroneously reported performance on this basis”.

This statement came from his working knowledge. Section 49 of the Audit Commission Act 1998 prevented him from “naming and shaming”.

In relation to the use of date of Team manager sign off rather than Section Manager sign off, and in relation to manual amendments, Michael had no knowledge of whether these had occurred in other local authorities.

Q6. and Q7. were taken together.

Q6. *The Panel has been advised that the District Auditor as part of his/her normal functions has carried out audits of Development Control Statistics on a regular basis over a number of years. Please confirm if this is correct?*

- *If yes, for how many years have these taken place and at what frequency?*

Q7. *If the answer to the above is yes, has that audit involved checking the accuracy of the data used to compile performance statistics?*

- *If yes, were there any issues that gave cause for concern in the audits of Hillingdon's development control performance recording and reporting procedures?*

A6. and A7. The Audit Commission have an annual, limited process of auditing local authority performance in relation to performance indicators, of which there are now about 150 plus. This would have been happening both before and around the time of the allegations in 2001. No concerns about Hillingdon's development control performance recording and reporting were raised with the council, as a result of this process.

Michael emphasised strongly that the responsibility for ensuring accurate performance information rests with the local authority, as does the responsibility for quality assurance.

Martin Searle confirmed that while the Audit process would examine and document a local authority's controls; it can only undertake very limited case examination. For example, in 2003 they looked at around 20 cases spread over the three types of planning application classification. There has to be proportionate testing in relation to all the requirements they are asked to audit.

Shown the Audit guidance provided by ODPM, this was not recognised by either Martin or Michael and they suggested that ODPM be asked for whom this was produced for.

Q8. *Your report makes clear that the council should take further action on the manual amendments (ref. pages three & four of your report). What action would you expect the council to take?*

A8. Michael pointed out that, as paragraph two on page three makes clear, it is not their role to substitute for the judgement of the Council nor can they be prescriptive in the steps that the council should take in relation to weaknesses identified by their work. However on page eleven, paragraph four, they had made recommendations in relation to the further investigation of manual amendments.

Asked to expand on the recommendation on page eleven that "the Council should undertake an independent investigation into the manual amendments", Michael said he had explained this to the Cabinet on 31 March 2005. He did not mean a public enquiry. He emphasised that further action in relation to investigating the individuals responsible for the manual amendments lies with the Council. He was recommending the Council should take further action on this.

*Q9. We understand that the District Auditor will be revisiting the issues covered by the report shortly, in order to cover these in his letter to the council. How will the auditor undertake this – will he examine cases? When will the results of this exercise be available to the council?*

A9. Martin confirmed that the Audit Commission plan to do a short focussed piece of work – probably a couple of meetings and a report. This is intended to bring them up to date with the issues covered in the report on the allegations and allow reference to these in the annual Audit letter.

The scope of their work could be limited to how the Council has responded to the issues raised in the report. Martin had heard that Hillingdon's Internal Audit are currently conducting another batch of testing on development control. The annual Audit letter has to be published by the end of January. But this could be a holding response, if the OSC's work and the internal audit exercise were still ongoing, for example.

Arrangements will be agreed with the Chief Executive and Head of Planning.

*Q10. Are there any particular aspects, not already covered above, that you feel this scrutiny should cover arising from your report?*

A10. Both felt the scope and nature of our review are a matter for us.

*Q11. Please give details of the limits, if any, you placed on the scope of your investigation.*

A11. Only those placed by Statute, as described at the top of page three of their report.





## Appendix 8: Guidance from ODPM on auditing BVPI

**109.** This guidance was given by ODPM to the Audit Commission in 2004, and provided to this review by the Best Value Team in ODPM.

**Audit guidance on auditing BV109A**  
**udit Guidance on Auditing BV109**  
 BV 109 a-c  
**National Standard PSA High Risk CPA inc Districts**

**Applications decided in line with Government control targets:** This indicator now has three sections. A weighted average of BV 109 a-c (except for Counties) is the equivalent of 2001/02 BV 109.

BV 109 is recorded in accordance with the ODPM's PS2 return and with CPS1/2 for County Councils

The definitions of the three types of applications on the ODPM's PS2 return are for non-counties (a) 'major' rows 1-5, (b) 'minor' rows 6 –10 and (c) 'other' rows 11-18.

County Councils do BV 109 (a) major applications only. The ODPM's CPS1/2 defines 'major' applications for those authorities. \*Note that for counties this includes *all* the applications, not just major.

Auditors will want to be aware of the following when carrying out their audits:

- The time from application to decision begins when a valid application and the correct fee (where a fee is payable) have been received. If the application is not processed and accepted registered as valid until some later date the clock must start on the original date the application was received, not this later date or the date at which the application and fee are entered onto the authority's system
- The first day counts as day zero and is the date referred to above
- If an apparently valid application is later found to be invalid following registration, the original start date for processing the application should be disregarded. The time from application to decision should start again on the date the application is made valid. This is the only circumstance in which the start date should be amended. (ODPM's PS2 notes). This only applies if the original application is invalid and does not apply if the authority requires additional information to determine the application
- When determining the processing period on no account should the 'clock' be stopped. 'Time\_spent in abeyance (for example pending the signing of a Section 106 Agreement) should be included in the total time taken and the processing period must not be suspended awaiting amended plans nor restarted upon receipt of amended plans
- The processing period ends on the date a decision notice is despatched. On no account should the clock be stopped once a decision has been made or once a decision has been entered onto file.
- Only county councils should exclude decisions where an environmental assessment has been made.

The Planning Delivery Grant is now awarded on the basis of the information contained in BV 109 returns. The grant may have created an incentive for authorities to manipulate their performance statistics to improve performance and therefore qualify for higher grant. In addition to the above clarification of the rules auditors will want to be aware of the following manipulations

- Backdating of applications so that the date of despatch of the decision falls within the target period for determination
- Allowing a backlog of applications to build up by focussing only on those new applications that can be determined within the targets for determination. The ODPM's working definition of a backlog is: 'An authority is considered to have a backlog of applications where the number of applications on hand at the end of the year is greater (by about 10% or more) than the number of applications determined in that year'. In order to determine whether this is a static backlog, declining backlog or growing backlog the trend is reviewed from 2001/2 onwards taking account of the number of applications on hand at the start of a year and the relationship between the number of applications determined and received in a quarter. It is recognised that We recognise that this analysis does not show the actual number of applications that are being carried forward at the end of a year which have gone beyond their target date since it is not possible to derive that information from the PS1/PS2 returns. Authorities sometimes refer to this as a backlog.
- Statement of policy or procedural practice to reject or approve any application that is reaching the end of the processing period and has not been determined
- Statement of policy or procedural practice to encourage applicants to withdraw applications that are reaching the end of the processing period and have not been determined.
- See also page 153 'Annex C' of the burgundy book about planning performance standards for this indicator and the list of relevant authorities that they apply to.
- Statement of policy or procedural practice to reject or approve any application that is reaching the end of the processing period and has not been determined

Statement of policy or procedural practice to encourage applicants to withdraw applications that are reaching the end of the processing period and have not been determined.

## Appendix 9: Other Key Documents

These are:

- (i) Motion to the Council on 23/01/03
- (ii) Responses from Trade Unions to a request for evidence
- (iii) All Councillor e-mail from Director of P&TG (hard copy only)
- (iv) E-mail of an internal meeting in P&TG (hard copy only)
- (v) PS2 Form and guidance (hard copy only)
- (vi) Letter from Government Office for London (hard copy only)
- (vii) Letter from ODPM dated 29 October 2004 to Chief Executives about Planning Delivery Grant and submission of PS1 and 2 Returns

i. Motion to the Council on 23/01/03

***From the Council agenda for 23 January 2003:***

10. To consider the following motion submitted by Councillor Janet Duncan in accordance with Council Procedure Rule No. 12:

'This Council notes with concern the poor performance of Environmental Services in the recent comprehensive performance assessment undertaken by the Audit Commission.

This poor performance has occurred in recent years following the loss of many experienced staff, the growth of agency staff, consultants and costs and a decline in value for money.

This Council calls upon the Cabinet as a matter of urgency to draw up, implement and monitor an action plan for Environmental Services and to publish and widely consult on this including input from all parties.'

***From the Council decision sheet for 23 January 2003:***

**5. MOTION FROM COUNCILLOR JANET DUNCAN ON ENVIRONMENTAL SERVICES PERFORMANCE (Agenda Item 10)**

The motion as amended was agreed as follows:-

'This Council notes with concern the poor performance of Environmental Services in the recent comprehensive performance assessment undertaken by the Audit Commission.

This poor performance is due to substantial lack of investment in the Borough infrastructure over many years, loss of experienced staff, inadequate contract specification and management, increasing levels of government bureaucracy which divert officer time from service management and improvement.

This Council calls upon the Cabinet in its review of the departments service plans for 2002-2005 to provide an action plan to tackle these issues and to identify ways of improving efficiency and targeting additional expenditure to guarantee service improvements.'

## ii. Responses from Trades Unions to a request for evidence

### **Letter and Responses from Trade Unions – PPWG**

#### **Responses:**

1. I do not recall this Branch raising any such concerns, however, I am aware that concerns were raised but am unsure if it was by the trade union, I have checked my files and cannot find anything relating to this matter. Apologies for not being able to help.  
Frank Stone, Branch Secretary **UNISON**
2. I don't remember the meeting to which you refer and so I am confident it wasn't one in which the NUT is involved.  
John Morris, **Hillingdon NUT**
3. I have no idea to what this refers so cannot help you at all.  
Pam Smith, **Hillingdon ATL (Association of Teachers & Lecturers)**

### **Copy of letter sent to all T.U.s, as advised by Personnel Service**

Frank Stone, Unison  
Wilemina Mitchell Murray, GMB  
Richard Kemp, UCATT  
Alan Howarth, NASUWT  
Pam Smith, ATL  
John Morris, NUT

Our reference: PPWG 26 Oct  
Your reference:  
3 November 2005

Dear Trade Union Secretary,

### **Overview and Scrutiny Review: Planning Performance – Continuous Improvement**

I am writing on behalf of the Planning Performance Working Group, an all party task group set up by the Environment Overview and Scrutiny Committee, to ask if you could help the Working Group in connection with their current review by furnishing documentary evidence of a trade union meeting alleged to have taken place in 2002 at which it is alleged concerns about planning performance were raised.

I have attached the terms of reference for this review. As you will see from these, the Working Group is focussing first on a request from Cabinet on 31 March 2005 to review matters covered in an Audit Commission report "Allegations of irregularities in development control statistics" (copy attached). The Audit Commission states in Exhibit 5 that:

"We [the Audit Commission] have been informed that concerns were raised at a union meeting in November 2002. We have also been informed that staff were given the opportunity to provide supporting evidence, but none was provided. In addition, no minutes of the meeting have been identified. In the circumstances, it is not possible to conclude as to what weight should be given in this respect."

The Working Group have asked me to ask you if you are able to furnish any evidence that the meeting in 2002 took place and what the matters of concern were that were raised?

The Working Group's next meetings are on 9<sup>th</sup> November and then 30<sup>th</sup> November 2005. I would be very grateful if you would respond to me in time for me to be able to report back to one of those meetings.

Yours sincerely

Maureen Colledge