



Oifig an  
Rialaitheora Pleanála  
Office of the  
Planning Regulator

# **Methodology for conducting reviews (under section 31AS of the Planning and Development Act 2000, as amended) of Local Authorities' systems and procedures in relation to the performance of planning functions**

January 2023



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# 1. Introduction

## Background

The Office of the Planning Regulator (OPR) is the regulatory body established under the Planning & Development Act 2000, as amended ('the Act') with responsibility for overseeing the delivery of effective planning services to the public and reporting on findings to the Minister for Housing, Local Government & Heritage and the Oireachtas.

One of the OPR's core statutory functions is to conduct reviews of the systems and procedures used by local authorities, (and An Bord Pleanála), in the delivery of planning services.

Reviews of local authorities' planning functions are provided for under the Act and can be undertaken in the following statutory contexts, including:

- Reviews, at the instigation of the Office (where it considers it necessary or appropriate in the circumstances) of a local authority or the Board in respect of the systems and procedures used in relation to the performance of its planning functions (section 31AS);
- Reviews at the request of the Minister where the Minister believes a local authority is not carrying out its functions under the Act, or where the Minister believes there are other serious failings (section 31AT).

As per the OPR's Strategy Statement 2019-2024, the OPR has committed to delivering a programme of reviews, under section 31AS of the Act, over a multi-annual cycle, whereby each authority will benefit in turn from having its planning systems and procedures reviewed.

## Purpose of Methodology

This methodology sets out the OPR's approach to conducting reviews of local authorities under section 31AS including broad scope and limitations, key principles and a step-by-step guide. It was initially developed on foot of the delivery of the OPR's pilot programme of reviews, which was initiated in 2020.

The pilot programme was guided by a 'Pilot Methodology for Conducting Reviews of Local Authorities' Systems and Procedures in relation to the Performance of Planning Functions' (2020).

Following the conclusion of the pilot programme in 2022, the OPR has implemented certain procedural changes to improve efficiencies within the reviews programme, which are reflected in this Methodology for Conducting Local Authority Reviews of Systems and Procedures in relation to the Performance of their Planning Functions' (2023).

This methodology is for use by all participants in the process, which include local authorities (incorporating the executive and elected members), the Regulator, OPR staff, contractors appointed by the OPR, authorised persons, the Minister for Housing, Local Government & Heritage and Department of the Housing, Planning & Local Government (DHPLG) officials.

This methodology will be complemented by practice guides and frameworks for the more specific contexts of reviews under section 31AS (An Bord Pleanála) and sections 31AT and 31AU at a future point.

### **Pilot Programme of Reviews**

In 2020, the OPR initiated a pilot programme of reviews to include four local authorities: Tipperary County Council, Louth County Council, Galway City Council and Kildare County Council, which demonstrated a variety of urban and rural planning contexts.

The pilot programme progressed successfully, with the OPR delivering the pilot phase of this programme during the course of 2021, despite being challenged by various pressures and restrictions arising from the Covid-19 pandemic.

The OPR has identified several learnings and procedural improvements for implementation in future phases of the reviews programme, which are included in this local authority review methodology.

### **Improvements to Local Authority Reviews Programme**

Based on knowledge gained from the pilot phase, refinements were made to the overall approach, with a view to making the review process more effective, including streamlining the submission of information requirements.

Also, lifting of public health restrictions enabled on-site visits and in-person engagement with local authorities.

The following procedural improvements have been incorporated to the local authority review methodology:

- a) reviews programme to be implemented on a multi-annual basis, rather than discrete phases;
- b) early notification to authorities regarding their scheduling in the programme;
- c) updated information request;
- d) advance provision of the statutory information request, to allow consideration and preparation;
- e) streamlining of written information to be provided formally in response to the information request;
- f) formal written response material to be signed-off at director of service level and coordinated through a single contact point within the authority;
- g) strict timeframe to be adhered to for the provision of written response material;
- h) supplementary information to be gathered through other more direct engagements (see next point), rather than written procedure; and,
- i) local authority to facilitate on-site engagement via face-to-face / workshop style meetings over a consecutive number of days (subsequent clarifications or additional information will be transmitted via email or through video conferencing).

## **Importance of Local Authority Reviews and Performance Monitoring and Assessment**

Local authorities play a crucial role in delivering sustainable development, protecting the environment, promoting economic development and creating places in which people want to live, work and enjoy life.

The work of local authorities, together with a range of stakeholders in both the public, private and community sectors, is vital in implementing the Government's policy and investment frameworks for planning and infrastructure under Project Ireland 2040, which includes the National Planning Framework (NPF) and National Development Plan (NDP).

Through its various functions the OPR fulfils an important oversight and monitoring role in relation to the delivery of proper planning and sustainable development outcomes by the planning system. Assessing the systems and procedures used by local authorities, in the performance their statutory planning functions through the reviews process.

Oversight and monitoring can be viewed as a means of ensuring that the **inputs** (systems, procedures, and national policies), **activities** (enforcement, development planning and management), **outputs** (development plans prepared, cases dealt with) and ultimately **outcomes** (development on the ground) are aligned to achieve the desired goals of national, regional and local policy.

Given that the statutory focus of reviews is on the systems and procedures used in the delivery of planning services, the reviews process does not provide for direct public input. However, issues raised by the public, through the OPR's examinations function, will assist in informing the overall approach to reporting on the effectiveness of the planning system.

Monitoring will focus on ensuring that local authority statutory planning functions are being delivered with appropriate and robust systems and procedures in place, which are capable of delivering these functions in accordance with the statutory requirements, ensuring productive planning outputs across all local authorities.

In addition, the OPR will focus on reviewing the management responsibilities and strategic business objectives of local authorities, having regard to systems and procedures in place for the day-to-day operations, with respect to the performance of functions. This includes local authorities' organisational frameworks for learning and development, performance management, and the implementation and monitoring of ethical frameworks within the organisation (i.e. declarations of interest, codes of conduct) as per the requirements of the Act.

## **Local Authority Reviews Programme as a Developmental Resource**

The local authority reviews programme is intended as a resource for the planning sector, allowing for identification of effective practices in the utilisation of systems and procedures and promoting learning between local authorities. The reviews programme provides an opportunity for local authorities to highlight good practice and achievements, in addition to highlighting particular challenges faced by them in the delivery of their planning services.

Through the reviews, the OPR will also identify any areas where improvements can be made to local authorities' systems and procedures and, in turn, will issue recommendations to local authorities.

The OPR will work with and provide support to local authorities throughout the review process and also in the implementation of recommendations once the review is complete, which is a 24-month process following the completion of the local authority review.

Planning systems are also complex given the political, environmental, social and economic contexts within which they operate. The conduct of reviews will need to reflect these complexities, which can be challenging to achieve.

The local authority review process and review methodology will continually evolve to reflect changes in policy and legislation and including a stocktaking exercise following each local authority review to reflect any lessons learned.

## 2. Statutory Provisions

### Local Authorities and the OPR

The carrying out of reviews will relate to local authorities as defined under the Act. This is a 'local authority' as defined under the Local Government Act, 2001, and includes elected members and the executive.

Functions under the Act include reserved matters dealt with by elected members and executive matters overseen by the chief executive. Reviews will therefore consider the operation of systems and procedures with regard to both reserved and executive functions.

The Planning Regulator is responsible for performing the functions of the OPR and any instruments may be signed by either the Regulator or two members of staff, one of which must be a director.

### Reviews instigated by the OPR under Section 31(AS)

Section 31AS (1) provides that ***where the OPR considers it necessary or appropriate***, it may conduct a review of a local authority or the Board in respect of ***the systems and procedures used in the performance of functions under the Act***.

Given its oversight function (section 31P(1)(f) of the Act), the requirement that it contribute to the optimal functioning of the planning system (under section 31P(3) of the Act), and its stated purpose to oversee the continuous enhancement of Ireland's planning process and its outcomes, the OPR considers it necessary and appropriate to implement a programme of planning reviews. As indicated in its Strategy Statement, the OPR will implement a programme of section 31AS reviews of all local authorities.

As outlined below each authority will be scheduled in turn for review, under section 31AS; the sequencing of the reviews will be based on a range of relevant criteria. In every instance, the rationale will be provided to the relevant local authority to be subject to review as to why the review is considered necessary or appropriate (separately reviews might arise on specific matters in the context of sections 31AT and 31AU).

Section 31AS(2) indicates that an authorised person may be appointed for the purposes of a review under Section 31AW(1). Subsections (2) and (3) of 31AW allows for the authorised person to request relevant information, undertake visits and be afforded reasonable cooperation.

Section 31AS(3) allows for overlap with reviews instigated at the request of the Minister under section 31AT.

Section 31AS (4) provides for circulation of draft report to the local authority and the Minister, section 31AS(5) facilitates submissions on the draft report and section 31AS(6) sets out the requirements for circulation and publication of the final report.

Section 31AS(7) states that recommendations in a review report may relate to section 28 guidelines, section 29 policy directives, and section 255 directions and appointments, as appropriate.

Section 31AV, the OPR may request from the local authority relevant information, records or documents and expect cooperation in relation to the matters which are the subject of the review.

### **Functions under the Planning Act**

Reviews under section 31AS must focus on the local authority's systems and procedures used in relation to the functions undertaken pursuant to the provisions of the Act. The review will also focus on the management responsibilities of the local authority and the procedures in place with respect to the day-to-day operation of the planning department, as per the requirements of the Act.

Such reviews do not relate to a Council's other functions (roads, housing, sanitary, etc.), except where they relate to the Act. The principal functions allocated to local authorities under the Act, incorporating both executive and reserved elements, can be summarised as follows:

- Forward planning for development plans and local area plans (Parts II of the Act);
- Development management, the preparation of contribution schemes, enforcement and environmental impact assessment (Parts III, VIII and X of the Act);
- Architectural heritage relating to protected structures, architectural conservation areas and areas of special planning control (Part IV of the Act);
- Housing strategies and delivery of social and affordable housing (Part V of the Act); and
- Other provisions including obligations on local authorities under vacant site legislation.

### **Consideration of Local Authorities for section 31AS Reviews**

While the OPR has independent statutory discretion to undertake reviews under section 31AS, selection criteria will be applied when considering the scheduling of local authorities for review. Furthermore, in scheduling local authorities, the OPR will give appropriate regard to any other focussed programmes of work that may be underway or other prevailing resource implications that may be presenting in specific local authorities at particular times.

The selection process will consider a range of relevant criteria with a view to ensuring an appropriate blend of local authorities are included in the reviews programme to reflect their varying characteristics, as well as the ongoing challenges faced by the sector.

Criteria that the Office will have regard to will include:

- scale of authorities, in terms of population;
- mix of authorities in relation to whether predominantly urban or rural;
- inputs from the evaluation of statutory plans;
- inputs from the complaints-handling function, including whether particular authorities and specific themes are recurrent in relation to the volumes of correspondence;
- analysis of indicator data, both via the National Oversight & Audit Commission (NOAC) and an expanded set of high-level planning data that the Office intends to seek (see Appendices);



- authorities that may have recently implemented programmes of structural reorganisation;
- matters identified through consultations with the Minister and the Oireachtas (under sections 31U and 31AH of the Act respectively);
- progress with the implementation of recommendations from previously completed OPR reviews; and
- requests from authorities that may proactively seek a review to inform restructuring or other reforms that a particular authority may be undertaking or considering.

### 3. Principles and Broad Approach for Local Authority Reviews

#### Introduction

This section provides an outline of the broad principles and approach to be adopted in undertaking section 31AS reviews.

#### Principles for Conducting Reviews

A number of broad principles can guide the review process itself. These can be summarised as follows:

- **Efficient** – the reviews should be undertaken in a timely and cost efficient manner and should have regard to resources available within the OPR and the local authorities.
- **Fair procedure** – all parties to the review should be afforded due process, fair procedure and the review should be carried out in accordance with the principles of natural justice and in accordance with the provisions of the Act.
- **Consistency** – all stages of the review should be evidence informed and there should be appropriate analysis and consistency of approach and analysis that will contribute to systemic strengthening.
- **Reasoned** – recommendations to the local authority and Minister should be reasoned and based upon the analysis provided.
- **Transparent** – all relevant information will be made available to all relevant parties at the appropriate time and the process of reporting and making recommendations will be clear and evident.
- **Communication** – the outputs of the review will be communicated in accordance with the provisions of the Act and lessons learnt will be disseminated.

#### Types of Review

Under the section 31AS, the OPR envisages that the following categories of local authority reviews will be conducted:

- **(a) General Reviews:** to be implemented as a programme whereby, in turn, each local authority will be reviewed covering the broad range of statutory planning functions;
- **(b) Focussed Reviews:** whereby the review will focus on a specific planning function (or a limited number of functions) in a particular authority; and,
- **(c) Thematic Reviews:** focusing on a specific planning function, or functions, across two or more authorities.

It is intended that 'General Reviews' will form the majority of the OPR's programme of local authority reviews, with each local authority reviewed on a cyclical basis, leaving scope for Focussed or Thematic reviews in response to issues arising within the planning system, as appropriate.

## Managing the Review

It will be vital that the review process is properly communicated, well managed and resourced and that the roles of the stakeholders (where relevant) are clear, that statutory provisions are adhered to and that the principles of fair procedures are fully implemented.

It is also intended to perform the review function in the most cost efficient manner, with clear timeframes to ensure various stages of the review are completed in a timely manner.

## Roles and Responsibilities

- **OPR:** has the statutory function of performing reviews under section 31AS. The OPR will initiate the process, appoint the authorised person, manage the process, prepare a report and submit it to the local authority and the Minister.
- **Authorised Person:** the person appointed under section 31AW to conduct a review will be an internal OPR staff member. On occasion the OPR may engage an external person to assist in carrying out certain reviews or at peak times; the OPR will carry out a procurement process to establish a panel of appropriately qualified reviewers for this purpose. In selecting external expertise to conduct a review, the OPR will ensure that no conflict of interest arises. The authorised person will assist the internal OPR staff in carrying out the work associated with the review and will prepare a contractor's report for review and inclusion in the draft report.
- **Local Authority:** under the Act, the local authority is required to provide requested information and to cooperate with the OPR. While any review may consider the systems and procedures utilised in respect of reserved functions, reporting to the OPR is deemed an executive function under the Act. It is a matter for the relevant chief executive to keep their council updated whether through monthly / quarterly management reports or otherwise. The local authority may also comment on the draft OPR report and will be responsible for implementation of recommendations made.
- **An Bord Pleanála:** under the Act, the Board is required to provide requested information and to cooperate with the OPR, as appropriate.
- **The Minister:** submissions may be made by the Minister in relation to the draft Review Report. The Minister will also have regard to any recommendations made in the final Review Report in relation to exercising of his / her functions with regard section 28 guidelines, section 29 policy directives, or section 255 directions.
- **NOAC:** performance indicators prepared by NOAC may be utilised in the review. The OPR will, work with NOAC to develop the performance indicators as required (See Appendix 2).
- **Other Parties:** under the provisions of the Act, the OPR may circulate the final report to other parties as appropriate. This may include other parties as appropriate including those referenced in the legislation. Regardless of circulation, the OPR will publicise general outputs from the reviews programme in its quarterly activity reports and in its annual report to the Oireachtas.

## Themes for Section 31AS General Review Reports

There are many functions under the Act, both executive and reserved, many of which are generally operated efficiently by local authorities. However, there are a number of key recurrent issues that arise in relation to the performance of planning functions, which can illustrate the overall effectiveness of the system. These issues are also matters that are generally common to all local authorities.

Ensuring that adequate systems and procedures are in place with respect to management responsibilities and strategic business objectives for the day-to-day operations is also key to the overall function of the local authorities, and should be consistent across the board.

In relation to the Local Authority Review Reports prepared by the OPR when conducting general reviews, such reports will be structured in three parts i.e. **Part A**, **Part B** and **Part C**, as indicated in the Section 31AV Information Request.

The Section 31AV Information Request is issued as part of the OPR Local Authority Review under section 31AS of the Act. Three areas of information are critical in enabling the OPR to build a clear picture of the local authorities' delivery of its statutory planning functions.

**Part A** will focus on organisational and management context while providing details on the local authority profile i.e. back ground, geographical location etc.

**Part B** will focus on the statutory planning functions and the delivery of planning services and will include the following themes:

### Theme 1: Forward Planning

The preparation of plan is a function under Part II of the Act. The focus of section 31AS general reviews will be on the systems and procedures that are in place to ensure:

- compliance with timeframes in the preparation of statutory plans and their review in the light of new or updated regional and national policy contexts (most recently in relation to Regional Spatial and Economic Strategies and the NPF);
- correct statutory provisions are utilised in the preparation of plans, including those to ensure evidence informed decision-making, transparency, bringing about effective public participation in policy development and compliance with national and regional policies; and,
- appropriate monitoring systems are in place to capture all relevant information (e.g. housing delivery, brownfield development, achievement of objectives, etc.
- the implementation of environmental assessment under the relevant EU Directives ensures a robust framework for considering the environmental effects during the plan-making and project consent stages.

## **Theme 2: Land Activation**

The local authorities should indicate measures in place to actively promote the development of sites, including areas identified for specific urban regeneration and renewal objectives in the development plan, in particular that support regeneration and brownfield development as provided for under the NPF, and implementation/promotion of the Town Centre First initiative. To ensure the role of the local authority in activating zoned lands through the vacant site levy is provided for under the Urban Regeneration and Housing Act 2015, and that the vacant site register is properly established, and operating and that land activation measures are in place.

## **Theme 3: Development Management**

The local authorities' role in managing sustainable development is reflected in different sections of the Act, including under Part III, through its development control functions and the preparation of development contribution schemes, and guiding the provision of housing under Part V.

The key areas that the reviews will focus on are the systems and procedures relating to:

- **policy compliance** in deciding planning applications with due regard to national and local statutory policy;
- **reporting procedures** are appropriate and in place in the processing of planning applications;
- **contribution scheme preparation** is appropriate and supports development priorities; and,
- the implementation of **environmental assessment** under the relevant EU Directives ensures a robust framework for considering the environmental effects during planning application/project consent stages.

## **Theme 4: Enforcement**

Part VIII of the Act mandates local authorities to address unauthorised development. These powers include issuing warning letters, serving enforcement notices and seeking Circuit Court and High Court injunctions. A robust enforcement system with respect to enforcement action and output should be in place to facilitate the effective tracking and recording of all documents related to the management of unauthorised development complaints.

The local authority should also provide guidance to staff on the various elements of the enforcement process from opening a new file, issuing warning letters, enforcement notices and legal proceedings, to the various mechanisms for closing files to ensure that the function is being comprehensively and effectively operated.

## **Theme 5: Architectural Heritage**

The systems and procedures in place with respect to the protection of architectural heritage in the local authority, including staffing and in-house expertise. The systems used to maintain and revise the Record of Protected Structures and procedures in place for identifying protected structures that may be endangered or that are in need of restoration should be provided.

## **Theme 6: Other Planning-Related Functions**

This section relates to other functions under the remit of the planning department, including events and funfairs, e-planning and Section 254 licences, specifically.

### **Other Considerations**

In addition to the above, another important consideration as part of the overall review process is the delivery of quality planning services which can be determined by various elements including cost effectiveness of the service as a whole, the efficiency in handling planning applications, transparency of processes, consistency of decisions, communications with all users, customer satisfaction, fairness and avoidance of bias.

Quality of service is cross cutting and relates to all functions undertaken by a local authority.

The key systems and procedures related to quality of service, on which general reviews will focus, are:

- **timeliness and efficiency** in processing planning applications (e.g. validations, granting consultations under section 247, etc.);
- **consistency and codes of conduct** in decision-making with regard to the application of statutory plan policies, government guidelines, and the requirements of the Act;
- **transparency and fairness** of processes used in performance of functions;
- **accessibility** and availability of information for members of the public and other stakeholders;
- **corporate** approach to collaboration and integration of services and functions;
- **stakeholder engagement** and responsiveness to their inputs into service delivery improvements; and
- **communications and use of ICT** in the performance of functions.

**Part C** of the report focuses on the wider strategic context, where the local authority can provide examples of local good practice and achievements and to provide a commentary on extraneous factors that may be positively or negatively affecting the delivery of quality planning services.

### **Local Authority Workshops**

The engagement with local authorities during the review process is a key step in the overall review process. This stage involves on site face-to-face engagements via workshop style meetings over a consecutive number of days (i.e. 2 days).

A series of questions are prepared by the OPR, based on the information submitted by the local authority as part of the 31AV Information Request, and these questions circulated to the local authority in advance of the workshop. This is to allow the local authority time to consider the questions, and prepare responses to the questions posed. It is also essential that the local authority ensure that the relevant staff are present for the workshop engagement.

A workshop agenda is also prepared by the OPR and submitted to the Local Authority for review and comment. The OPR will try to facilitate flexibility around the workshops given workloads and the availability of local authority staff.

### Data Sources for Reviews

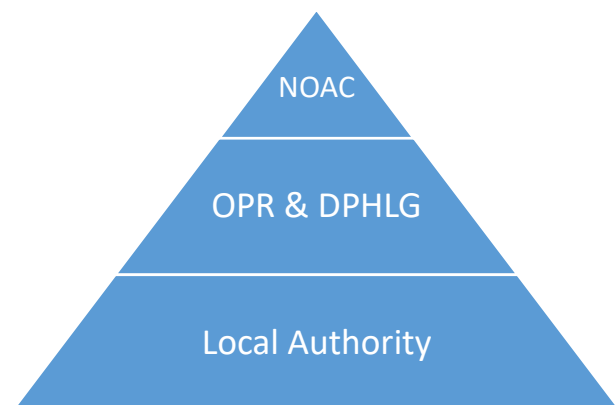
A series of indicators has been developed by NOAC. Three of these existing indicators relate directly to functions under the Act. They are:

- P2 - Appeals to An Bord Pleanála - % of the determinations which confirmed (either with or without variation) the decision made by the local authority
- P3 - Planning Enforcement Cases Closed as Resolved
- P4 - Cost per capita of planning service

Other measurements and indicators can be used to measure the delivery of effective planning services, including data available through the Central Statistics Office, An Bord Pleanála, Dept. Housing, Planning & Local Government, etc.

To enhance the availability of planning data at a national level the OPR will also work with wider stakeholders to strengthen indicators to measure planning outputs over all authorities on an annual basis, while at the same time ensuring a reasonable administrative and data gathering burden.

Consideration of themes emerging through these indicators will form an important element in the OPR's annual report and accordingly the OPR will compile and retain such data to assist it in delivering on its statutory functions. The data compiled and retained in respect of specific authorities will assist in the reviews programme (data will not be sought directly from authorities during the review process where it is already publicly available).



**Figure 1: Indicator Hierarchy**

A potential outline of the future shape of such indicators is included in Appendix 3.

### Collection of Information

At the beginning of each review process, in addition to notifying the local authority (as outlined in Section 1.4.2), the OPR will seek input from the local authority which may provide such additional information and data as it considers relevant. There will be an open line of communication between the OPR and the local authority under review at all stages of the review process.

Local authorities will be requested to provide information on their management responsibilities, strategic business objectives and systems and procedures in relation to a broadly based representative set of activity areas (outlined in the 31AV Information Request). In doing so the local authority should provide narrative explaining its systems and procedures supplemented with the provision of procedural / process manuals, protocols, etc. and any data the local authority

considers appropriate (as noted above, the OPR will compile and retain various publicly available planning data which it will not be necessary for authorities to include in their response).

The appendices (Appendix 2) contain a template for the response from a local authority undergoing a general review, including key questions in relation to a representative sample of statutory functions that local authorities discharge under the various chapters and parts of the Act.

### **Local Authority Response**

In preparing responses to the OPR, local authorities should:

- Ensure appropriate staff time and resources is made available to gather the relevant information, with a nominated person being responsible for coordinating the response;
- Respond to the questions set out and any other relevant matters they see fit in a concise and coherent manner, ideally reports not exceeding 100 pages;
- Take account of the various stakeholders in the planning process that will be able to access the report once finalised and published;
- Highlight innovations and areas where systems and procedures have been developed to improve service delivery, including service plans for further advancements in the range and or quality of planning services offered under the Act;
- Acknowledge challenges – recognise where systems and procedures need to be improved or put in place;
- While the local authority response will inform the preparation of the OPR's Review Report, and relevant details may be quoted / extracted, the response will not be published by the OPR.
- Ensure that each submission is signed off at Director of Service level or equivalent (sign off sheet included with 31AV information request).

### **Case Studies**

In responding to the initial request for information by the OPR, under Part C, local authorities will be encouraged to include case-studies as an opportunity to highlight local good practice and achievements and also to provide commentary on extraneous factors that may be positively or negatively affecting the delivery of statutory planning functions.

Such case studies are an excellent way of demonstrating qualitative issues, innovation and good practice, facilitating peer learning.

### **Final Reporting, Ratings and Recommendations**

The authorised person will review the local authorities' response and will be responsible for any necessary further engagement before preparing the draft Review Report, which will be subject to a number of further statutory steps as set out in the following section before finalisation.

#### **Ratings:**

Due process and fair procedure is part of the work of the local authority reviews and the OPR are independent in their all of the local authority reviews conducted.



The local authority reviews programme does not set out to create a league table of local authorities with regard to performance. Nevertheless, for any review to be meaningful and to give local authorities a benchmark with regard to improving their services, the OPR will apply a rating in respect of performance across the key operational processes in planning service delivery.

The ratings are **highly effective**, **effective**, **some improvement needed**, and **unsatisfactory**, and will be applied to each theme of the report accordingly.

### **Recommendations:**

The key findings and recommendations should be necessary, relevant to the review, implementable, precise and reasonable. Any recommendations made regarding improvements to systems and procedures should include practical suggestions to ensure implementation of the recommendations. The recommendations are also graded by the level of priority that should be assigned to them by the local authority, such as **critical**, **high**, **medium**, **low** and **advisory**.

Recommendations are given a reasonable timeframe for implementation (i.e. 6 – 24 months).

The draft Review Report is circulated to the local authority and the Minister, both the local authority and the Minister are given a timeframe of three-weeks to respond to the draft Review Report. If required, a meeting can be arranged between the local authority and the OPR to discuss the draft Review Report.

Any submissions/observations from the local authority or indeed the minister are considered and incorporated into the final report. Following management review, the report is published.

### **Implementation**

The monitoring of the implementation of OPR recommendations is essential to ensure the integrity of the process and is a staged approach. Once a particular review is complete, it could be expected that some specific recommendations may need to be followed through.

Post review, the OPR will continue to engage with relevant authorities on the implementation of those recommendations over a 24-month period at 6 monthly intervals (i.e. 6 months, 12 months, 12 months and 24 months).

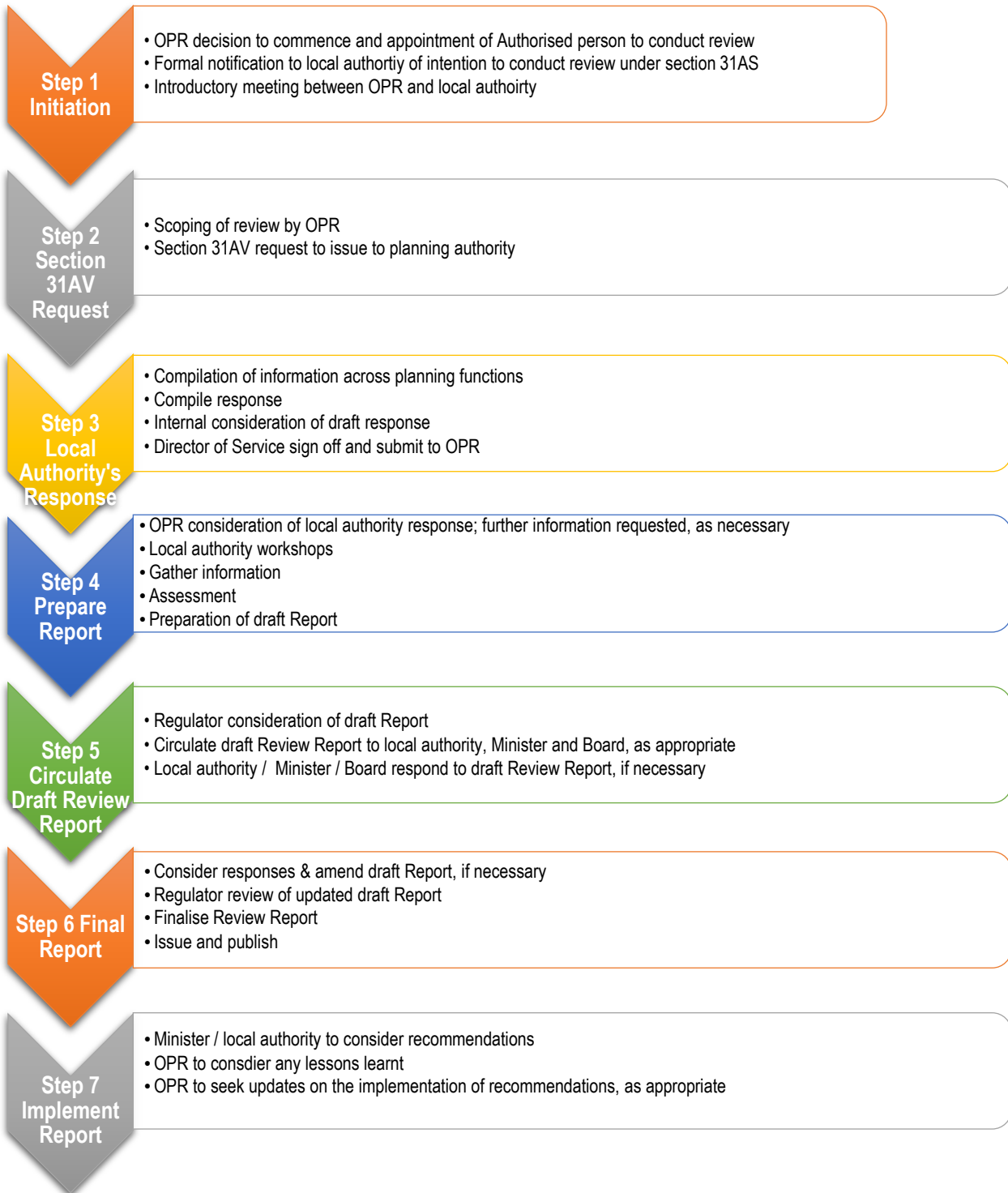
Six months is the first OPR check in with the local authority post review. The OPR will contact the local authority prior to the 6 month deadline to request an update on the progress of the implementation of the recommendations of the review report. A template spreadsheet will be submitted for the local authority to complete, which will include all recommendations of that specific local authority review to seek updates on the implementation of any such recommendations as appropriate.

Progress with regard to the implementation of OPR recommendations to improve any systems and procedures could be a consideration in the selection of particular authorities for further subsequent reviews. It is also important to note that, whilst the review may be complete, engagement between the OPR and the local authority will continue on an on-going basis to ensure and promote the delivery of high quality and efficient planning services.

## 4. Step-by-Step Guide for Conducting a Review

### Process Overview

The following diagram is an outline of the process.



The following sets out in more detail the requirements under each step. A suggested timeframe in weeks, from the initiation to final Review Report is indicated.

### **Step 1 – Initiation (week 1)**

The following is undertaken in this step:

- i) OPR decides to initiate a review of a particular local authority; as noted above this decision will be based on various selection criteria which will be referenced in the OPR's notification of its decision.
- ii) An authorised person under section 31AW is appointed to undertake the review. This person may be either an internal member of staff or an external qualified consultant, as appropriate.
- iii) Correspondence with the local authority sets out the process, including the nature of review (i.e. a general, focussed or a thematic review). Broad timeframes will also be indicated.

### **Step 2 – Section 31AV Request (week 1-3)**

The various elements of this step are broken down as follows:

- i) A request for information will issue to the local authority, under section 31AV (see Appendix X or link to website here?). The request will set out the material to be submitted to facilitate the review and the format within which it should be submitted. An indicative response template, with regard to general reviews, is illustrated in Appendix 2 covering broad topics within the range of statutory planning functions; this template will be used as a starting point but will be subject to ongoing and further development by the OPR in advance of the initiation of reviews. A more concise response template will also issue in instances of focussed or thematic reviews.
- ii) The questions posed in the response template are capable of being responded to by the local authority in a relatively open manner, whereby the authority can highlight the key opportunities and challenges in delivering statutory planning functions.
- iii) In addition to answering specific questions in relation to performance of functions, the request should seek the provision of procedural / process manuals, protocols, explanation of procedures and practices, documents, planning reports, sets of data required to provide a basis for analysis of service delivery.
- iv) It should be noted that the focus of section 31AS is with regard to systems and procedures. Accordingly, bodies of cases, rather than individual instances, may be reviewed to assess the procedures and practices applied, or to consider the consistency in the application of planning policy.
- v) As a general principle, local authorities will not be requested by the OPR to provide information that is readily available elsewhere (e.g. in NOAC indicators, or DHPLG statistics or internal OPR sources).
- vi) The request may suggest the suitability of case-studies to illustrate systems and procedures being used which the authority itself considers good practice.
- vii) The section 31AV request will issue to the local authority indicating a timeframe within which the initial response should be provided. Given that the request may be extensive, and the local authority will have its own internal reporting procedures to comply with, the period for responding will be specified by the OPR and will be at least five weeks or such other period as will be determined by the Office.

### **Step 3 - Section 31AV Response (weeks 6-9)**

There are a number of discrete tasks within this step, which can be summarised as follows:

- i) Relevant administrative and professional staff should be assigned to compile the response.
- ii) Local authorities will use the information request as a template to reply to the OPR.
- iii) OPR staff may schedule a meeting with the relevant local authority to brief the assigned officials on what to expect from the reviews process.
- iv) In the course of implementing its programme of reviews the OPR will give consideration towards establishing a list of suitably experienced and qualified local authority practitioners that may make themselves available on a voluntary basis to assist the authority during the review process. These practitioners will not have a reporting arrangement with the OPR. Where such assistance is to be availed of, the relevant authority should meet with the practitioner so that material can be considered and advice be provided accordingly.
- v) The preparation of the response is an executive function and accordingly it is a matter for the chief executive to consider any local arrangements for the elected members to provide feedback into the finalisation of the local authority response to the OPR.
- vi) The response should then be submitted to the OPR.

### **Step 4 - Authorised Person Review and Draft Review Report (weeks 10-16)**

Upon receipt of the response from the local authority, the next step will include the following:

- i) The response should be reviewed by the Authorised Person. If more information is required, the OPR will write to the local authority specifying the information required.
- ii) The Authorised Person may schedule interviews / meetings with relevant officials of the local authority, if considered necessary. Minutes should be taken, and agreed, of any meetings held.
- iii) The submitted information should be reviewed and analysed. Where a body of cases is examined to demonstrate compliance with a particular procedure or policy, the body of cases should be of such a size so as to allow for a reasonable conclusion. The analysis of systems and procedures should be presented based on the thematic structure outlined in paragraph 2.6.
- iv) The draft Review Report prepared by the Authorised Person must be objective, must be based upon the evidence submitted, must draw qualitative assessments from relevant legislative (Acts), regulatory (Regulations), policy (Policy Directives and Guidelines) and advisory (Circular Letters, Practice Advice) sources and must include reasoned conclusions as to the systems and procedures used by the local authority in relation to the performance of its functions under the Act.
- v) The draft Review Report will follow the following general structure (though certain aspects may be truncated in instances of focussed or thematic reviews):

### **Sample Layout of Review Report**

#### **Introduction**

- Background/process
- LA profile (incl. geographical area, population profile, notable characteristics, organisational structure of LA as a whole)

## **Overview of Key Findings**

### **3 Planning Section Structure and Management**

- Overview incl. budget
- Staffing structures
- Performance management
- Learning and Development incl. training plans

### **4 Statutory Planning Functions**

- Forward Planning including Environmental Assessment relating to forward planning (SEA, AA, SFRA)
- Architectural Heritage
- Plan Implementation including Land Activation
- Development Management including Environmental Assessment relating to development management (EIA, AA)
- Enforcement

### **5 Other Planning Related Functions**

- Local Authority Own Development
- Taking in charge
- Events & funfairs
- Quarries, where applicable
- Online Planning Services and 'e-planning'
- Section 254 Licences

### **Other – Part C**

- Relevant Case Studies

### **Key Findings and Recommendations,**

These should be made in relation to systems procedures and should be

- necessary;
- relevant to the review;
- implementable;
- precise; and
- reasonable.

Any recommendations made to a local authority regarding improvements that could be made to systems and procedures should include practical suggestions to ensure implementation of the recommendations. The OPR's report may include specific recommendations for the authority or to the Minister to issue section 28 guidelines, section 29 directives or directions under section 255.

While the legislation does not specifically provide for recommendations in the Review Report in relation to general planning policy, changes in regulations or legislation, or good practice development, there is scope for the reviewer to bring such matters to the attention of the Regulator in the form of an information note or separate feedback form.

### **Step 5 – Draft Report and Circulation (weeks 17-21)**

The draft Review Report should be finalised and the following should be done:

- i) The draft Report will be submitted to the Planning Regulator.
- ii) The Regulator may amend or add to the draft Review Report. Amendments will be clearly set out in the form of a stand-alone document indicating the changes.
- iii) The draft Review Report shall then be circulated to the local authority and the Minister, indicating a period within which any submission should be made. A reasonable period would be three weeks from the date of circulation of the draft Review Report.

### **Step 6 - Review of Submissions and Final Report (weeks 22-24)**

Upon receipt of submissions, the following tasks should be undertaken:

- i) The Authorised Person shall prepare a summary of the submissions, making any recommendations to amend the draft Review Report. In general, amendments should relate to errors of fact or where there is an unreasoned conclusion or recommendation in the draft Review Report.
- ii) The reviewer's summary of submissions, with any recommendations, should then be presented to the Planning Regulator, who will confirm whether the Review Report is to be finalised with amendments or not.
- iii) A copy of the final Report shall be sent to the local authority, the Minister and any other such persons as is considered appropriate in the circumstances. The Report shall only be published on the OPR's website in its finalised version and following circulation to the relevant authority and the Minister. A summary of reviews completed and issues arising will be included in any general OPR activity reporting, including the annual report to the Oireachtas.

### **Step 7 – Post Review (6 months onwards)**

Monitoring of the implementation of any OPR recommendations to the local authority will be essential to ensure the integrity of the process. The OPR will seek updates on the implementation of any such recommendations as appropriate. As noted above in paragraph 2.12, progression with regard to the implementation of recommendations may be a consideration in the selection of particular authorities for further subsequent reviews.

While it is anticipated that most reviews will result in recommendations for the local authority with regard to the development of systems and procedures, where significant matters arise from a review, recommendations may issue to the Minister under section 31AS(7). As noted above, such recommendations may relate to section 28 guidelines, section 29 policy directives, and section 255 directions and appointments. Where such recommendations are included in a Review Report the Minister may consider exercising the relevant powers available.

As noted, it is intended that the reviews programme will become a resource to the planning process, whereby good and effective practices are identified and promoted between local authorities. In this regard the OPR will facilitate the coordination of peer learning, and will use knowledge gained from reviews to inform educational programmes. Furthermore, matters arising from the reviews programme may also highlight issues or topics to be further explored through the OPR's research function.

## **Appendix 1 – 31AV Information Request**

The Section 31AV Information Request under section 31AV of the Planning and Development Act 2000, as amended can be found [here](#).

## **Appendix 2 – Planning Data and Statistics (Existing & Proposed)**

### **An Bord Pleanála Planning Statistics**

- Number of Planning Cases Received and Disposed
- Number of Planning Appeals Received and Disposed
- Strategic Infrastructure Development (Private Entities / Statutory Undertakers)
- Strategic Infrastructure Development (Local Authority)
- Other Local Authority Projects
- Strategic Housing Development Applications
- Vacant Site Levy
- Other Case Types

### **Central Statistics Office (CSO) Planning Permission Statistics**

- Number of planning permissions granted (houses)
- Total floor area for planning permissions granted
- Number of housing units for which planning permission granted by county
- Number of dwelling units for which planning permissions granted by type of dwelling
- Average floor size per unit by type of dwelling
- Planning permissions granted (all development types)
- Total floor area for which permissions granted

### **Department of Housing, Planning & Local Government Planning Statistics**

- Number of invalid applications
- Number of planning applications received
- Number of Planning Decisions
- Number of Refusals
- Number of Grants
- Percentage of decisions made within 8 weeks / deferred

### **National Oversight & Audit Commission Planning Indicators**

- Planning Decisions Confirmed by An Board Pleanála
- Planning Enforcement Cases Closed as Resolved
- Cost Per Capita of Planning Service

### **Office of the Planning Regulator indicators under development**

- What percentage of new development (all categories) is being delivered on brownfield lands in accordance with the National Planning Framework?
- What number of material contraventions were tabled and approved during the year?
- How many applications were subject to further information request?



- What number of sites were on (a) the Vacant Sites Register and (b) the Derelict Sites Register at the start of the preceding year and how many of these were brought forward for development during the course of the year?
- What is the average number of weeks from application date to issuing of the decision to grant / refuse on a planning application (the applicant's response time following requests for further information should be excluded)?
- What number of pre-application consultation requests were made pursuant to section 247 of the Act; what percentage of these requests were facilitated; what percentage were facilitated within 4 weeks of the request being made?
- What planning services are accessible online:
  - request for pre-application consultation Y/N
  - making of a complaint in relation to planning enforcement Y/N
  - making of submissions on statutory plans Y/N
  - making of a planning application Y/N



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Planning Regulator