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Planning decision and statutory consultee response times

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As requested by the Committee for Infrastructure, this paper provides an overview of planning decision times and statutory consultee response times in Northern Ireland, and across the UK and Ireland.

This information is provided to Members of the Legislative Assembly (MLAs) in support of their duties, and is not intended to address the specific circumstances of any particular individual. It should not be relied upon as professional legal advice, or as a substitute for it.

Key Points

- NI's average decision time exceeds the targets for both local, major and regionally significant applications. However, major application decisions have improved by 20 weeks in the last year.
- Differences in timescales, reporting periods and methodologies make direct comparison across all the jurisdictions difficult.
- NI appears to have longer decision time targets compared to other regions. That being said, Scotland does not state statutory targets in its reporting, but makes reference to agreed timescales between the planning authority and developer.
- In England, most decisions appear not to meet statutory targets. In Wales just over half are made within them. In Ireland, just over 60% are made within the target, however most strategic infrastructure cases are not.
- In terms of average decision times, the differences in figures used in statistical reports across jurisdictions meant that not all jurisdictions were completely comparable. It appears that NI takes longer than Scotland for local decisions, but slightly quicker for major, and longer than England for major decisions. In general, NI appears to take longer than Wales.
- NI takes an average 51.4 weeks to make a decision on renewable energy applications. Directly comparable figures were not available from other jurisdictions. However, Ireland takes 36 weeks for decisions on strategic infrastructure, which includes renewable energy.
- In NI, over the last 7 years, 69-76% of statutory consultee responses have been on-time (within 21 days).
- However, not all jurisdictions provide a for an overview on statutory consultee performance similar to NI. Wales provides the closest overall comparative. For England and Scotland, the paper refers to specific statutory consultee performance reports, however this does not give as complete a picture.
- Ireland does not appear to publish data on statutory consultee response times, and this may be due to differences in obligations under its legislation.

- In 2019 a [Review](#) was carried out on behalf of DfI examining statutory consultees and their performance. One of the areas identified was the need to improve the quality of applications through checklists and validation dispute mechanisms.
- The Infrastructure Minister has recently announced amendments to introduce validation checklists for applications.

Introduction

The following paper considers decision times for planning applications, and statutory consultee response times in Northern Ireland. It provides an overview of other jurisdictions (across the UK and Ireland), and where possible, makes comparisons.

It should be noted that differences in reporting styles across the different jurisdictions make comparisons difficult, and where this presents an issue, it has been highlighted throughout the paper.

1 Decision times

The following section considers the decision times for planning applications across the different UK regions and Ireland.

It appears that not all regions categorise and present data in the same way which makes direct comparison difficult. For example:

- Statutory response time targets differ between regions, with some having shorter timeframes than other. For example, NI has a target of 15 weeks for local applications and 30 weeks for major, compared to England and Wales with eight weeks for local and 13 weeks for major (16 weeks for application requiring Environmental Impact Assessment (EIA)).
- Some present data as a percentage of decisions made within the statutory targets, while NI presents it as an average time in weeks taken across planning authorities.

- Most record response times for both minor/local and major and give a breakdown, apart from Ireland where an overall figure is given. Not all provide decision times for nationally significant decisions (apart from Ireland), or renewable energy decisions in the way NI does.
- The paper presents the most recent data publicly available in each region. Some have data to March 2024, others only for 2023. Some provide for a full year, while others are for a quarter.

Due to the above reasons, it is therefore difficult to make direct comparisons. However, the following section attempts to provide an overview of planning application decision times made by planning authorities across NI, the UK and Ireland.

1.1 Northern Ireland

The Northern Ireland Audit Office (NIAO) Report on the review of the NI planning system highlighted the delay in decision-making, especially with most major applications not meeting statutory decision-making targets. In fact, it appears that the planning system in Northern Ireland is slower than in other jurisdictions.¹

Decision times are taken from the valid date, to a decision or withdrawal date². According to the [planning statistics Bulletin for April to June 2024](#):³

Local applications:

- The average decision times for April to June 2024 was 19 weeks across all councils.
- This exceeds the 15-week target and is the same as the year before.
- Five of the 11 councils met the 15-week target, see Figure 1 for detail.

¹ NI Audit Office (2022) [Planning in Northern Ireland](#) p.28

² [DfI Planning Statistics Bulletin April to June 2024](#) p.11

³ DfI [Northern Ireland planning statistics April 2023 - March 2024 | Department for Infrastructure](#)

Major applications

- The average decision time for major applications for April to June 2024 was 38.6 weeks across all councils.
- This exceeds the 30-week target, but is a decrease of 21 weeks compared with a year earlier.
- Five of the 11 councils met the 30-week target. See Figure 1 for detail.

Figure: Council performance against targets April-June 2024



Source: DfI (October 2024) [Northern Ireland Planning Statistics - Statistical Bulletin](#) (p.4)

Regionally significant applications⁴

- Of the five regionally significant development (RSD) applications live in the planning system at the end of June 2024, three have been progressed to ministerial recommendation but the 30-week decision period has been exceeded.

⁴ DfI [Northern Ireland Planning Statistics - Statistical Bulletin \(infrastructure-ni.gov.uk\)](#) p.9

- Of the remaining two awaiting ministerial recommendation, the 30-week period has been exceeded.

The DfI's [Annual Statistical Bulletin 2022/23](#) shows that for renewable energy applications:

- The average processing time was 51.4 weeks, an increase from 43.8 weeks the year before.
- Most of the applications received (67.8%) were for single wind turbines.

NI's renewable energy generation is currently at 45.8%, which is a 0.3% increase in the last year⁵. With an aim of achieving 80% (under the [NI Climate Change Act 2022](#)), NI has just under six years to increase this by 36% by 2030.

In line with the [Climate Change Act \(Northern Ireland\) 2022](#) and renewable energy targets, in April to June 2023, DfI launched a consultation on a [draft revision of the Regional Strategic Planning Policy on Renewable and Low Carbon Energy](#). The outcome of this consultation and any revision to the SPPS is currently with the Department.

1.2 England

Published statistics for England appear to provide figures as a percentage decided within the statutory target, rather than as an average number of weeks (similar to NI). Also, it is worth noting the differences in percentages for decisions made within the target weeks only and not including those where an agreed time frame may have been made in writing with the applicant:

- District level planning authorities in England (April to June 2024)⁶:

⁵ DfE [Electricity Consumption and Renewable Generation in Northern Ireland: Year Ending June 2024](#)

⁶ MHCLG [Planning applications in England: April to June 2024 - statistical release - GOV.UK](#) and [Planning Performance Tables](#) (Table p120)

- 41% of minor applications were decided within the statutory time period of 8 weeks only; with 87% agreed within 8 weeks or an agreed time.
- 20% of major applications were decided within the statutory period of 13 weeks only⁷; with 91% within 13 weeks or an agreed time.
- County level planning authorities in England⁸ decided 89% of applications within 13 weeks of the agreed time⁹.

According to a 2024 consultation on an [Accelerated Planning Service](#), the average time to determine a major planning application is estimated to be approximately 28 weeks¹⁰.

The [Planning Inspectorate](#) deals with national infrastructure applications across England and Wales. Further information on projects can be found at [National Infrastructure Planning](#). However, the Inspectorate's [Quarterly and Annual Statistics](#) (June 2024) does not appear to provide times for making decisions.

To help with speeding up the planning system, the previous UK Government consulted on an [Accelerated Planning Service](#) in March 2024. The proposals included:

1. A new Accelerated Planning Service for major commercial applications. At a higher planning fee, a decision time in 10 weeks (instead of the statutory 13 weeks) and fee refunds if this is not met.
2. Ending the use of extensions of time for householder applications and only allowing one extension of time for other development.
3. Expand the current simplified written representations appeals process for householder and minor commercial appeals to more appeals, including

⁷ Applications requiring an EIA are to be decided within 16 weeks, however the statistical bulletin and Tables do not appear to provide detail.

⁸ Such as counties, unitary authorities, London boroughs, metropolitan districts, national parks and development corporations. 'County matter' applications include the winning and working of minerals and the deposit of waste. For more information see [Planning applications in England: April to June 2024 - statistical release - GOV.UK \(www.gov.uk\)](#)

⁹ MHCLG [Planning applications in England: April to June 2024 - statistical release - GOV.UK](#) and [Planning Performance Tables](#) (Table p120).

¹⁰ [An accelerated planning system - GOV.UK \(www.gov.uk\)](#)

refusals of: permission, listed building consent, protected trees, conditions etc.

4. Implement section 73B (as provided under the [Levelling Up and Regeneration Act 2023](#)) to enable material variations to planning permissions, providing the development was not substantially different from the existing one.

For more detail on the proposals see [An accelerated planning system - GOV.UK \(www.gov.uk\)](#).

It is not clear whether any of these proposals have, or will be, taken forward under the new UK Government. However, the new UK Government released a [consultation](#) on revision to the current National Planning Policy Framework (July – September 2024). Proposal's include increasing planning fees, allowing local authorities to determine fees, and allowing for wider services to be funded through fees e.g. plan-making and enforcement, conservation and heritage services etc

1.3 Wales

Similar to England, Welsh statistics appear to provide for the percentage decided within the statutory target (and within agreed timescales), rather than the average number of weeks taken. For January to March 2024:

- 53% of applications were decided within the 8 week statutory timeframe (or 16 weeks for EIA). 87% were decided within the statutory and agreed timescale.¹¹
- It took on average between 15-17.6 weeks to determine applications in the first quarter of 2024¹².

¹¹ Welsh Gov [Development management quarterly survey \(January to March 2024\) | GOV.WALES](#)
Table 1

¹² Ibid Table 6

1.4 Scotland

Scotland provides data in a similar format to NI in terms of the average number of weeks taken to make decisions. However, most recent data is only in quarterly form for 2023.

Local developments from April to September 2023¹³:

- The average decision time is 11.1 weeks in Q1 and 11.3 weeks in Q2.
- In Q1 72% met agreed timescales that had been set between developers and local authorities. In Q2 70% met the agreed timescales.

Major developments from April to September 2023:

- The average decision times for applications without processing agreements were 22.4 weeks in Q1 and 52.9 weeks in Q2 (which averages at 37.7 weeks).
- Processing agreements timescales were met for 64% in Q1 and 38 % in Q2
- In Scotland, certain applications in relation to energy infrastructure (>50 megawatts) are made to the Scottish Ministers for determination, through the [Energy Consents Unit](#). However, there do not appear to be any published statistics on application decision times for these.

In 2023 Scotland updated its [National Planning Framework](#) (NPF4) in line with its net zero ambition by 2045. The updated NPF states that it:

*will encourage low and zero carbon design and energy efficiency, development that is accessible by sustainable travel, and expansion of renewable energy generation.*¹⁴

¹³ Scottish Gov (February 2024) [Planning Applications Statistics 2023/24: Quarterly \(April 2023 to September 2023\) \(www.gov.scot\)](#)

¹⁴ Scottish Government [National Planning Framework 4 - gov.scot \(www.gov.scot\)](#)

1.5 Ireland

Government planning statistics appear to only provide for percentage of decisions made within the statutory target. However, An Bord Pleanála provide the average number of weeks taken for strategic infrastructure decisions:

- For county and city planning authorities in 2023: 61.88% of decisions were made within 8-weeks.¹⁵
- Since 2007, planning applications for proposed strategic infrastructure development are not submitted to the local planning authority but instead they are submitted to [An Bord Pleanála](#) for a decision¹⁶. The Board has a statutory objective to determine strategic infrastructure cases within 18 weeks.¹⁷
- Strategic infrastructure development includes renewable energy development (also transport, environmental and health infrastructure).¹⁸
- In 2022 average decision times on strategic infrastructure cases was 36 weeks.¹⁹
- Only one case was decided within the statutory 18 weeks in 2022²⁰.

¹⁵ <https://assets.gov.ie/132874/b290775a-75cd-4fef-bdab-61a16a2884df.xlsx> available at [gov - Planning Statistics \(www.gov.ie\)](#). Changes to targets may be brought in under the [Planning and Development Bill 2023](#)

¹⁶ An Bord Pleanála determines appeals on planning cases, but also makes decisions on strategic infrastructure development (to which there is no appeal on the Board's decision). For more information see [About Us | An Bord Pleanála \(pleanala.ie\)](#) and [Strategic Infrastructure Development Guide | An Bord Pleanála \(pleanala.ie\)](#)

¹⁷ An Bord Pleanála [SID: Board's decision | An Bord Pleanála \(pleanala.ie\)](#)

¹⁸ An Bord Pleanála [SID: Types of Strategic Infrastructure Development | An Bord Pleanála \(pleanala.ie\)](#)

¹⁹ An Bord Pleanála (2022) Annual Report Appendices (Table 2, p.3) [An Bord Pleanála Annual Report Appendices 2022 \(pleanala.ie\)](#)

²⁰ Ibid (Table 14B, p.11)

1.6 Observations

- Differences in timescales, reporting periods and methodologies make direct comparison across all the jurisdictions difficult.

Targets:

- NI appears to have longer decision time targets compared to other regions. NI has a target of 15 weeks for local applications and 30 weeks for major and regionally significant, compared to England and Wales with 8 weeks and 13 weeks (16 weeks for EIA); and Ireland with 8 weeks for local and 18 for strategic infrastructure development. Scotland does not state statutory targets in its reporting, but makes reference to agreed timescales between the planning authority and developer.
- In terms of meeting decision targets, NI's average decision time exceeds the targets for both local, major applications (by local authority) and regionally significant applications (by DfI).
- Seven councils currently exceed the major target, and six exceed the local target. Only two are within both targets (Figure 1). ***This may give rise to a number of questions: are there issues with particular offices? Are councils equally resourced? Are certain councils under more pressure than others due to a larger volume of applications?***
- In terms of comparisons with other jurisdictions, differences in the style of reporting make this difficult. Unlike NI figures (which are provided in weeks against the target), England, Wales, Scotland and Ireland provide the percentage of decisions that meet targets (or agreed timescales in Scotland). England and Wales provide figures for decisions made within statutory targets, and also within agreed timescales. As expected the figures which include meeting agreed timescales are much higher.
- In England, most decisions exceed the statutory targets for minor and major, except at county level where most are made within the target period. In Wales, just over half are made within the target periods. In Ireland, just over 60% are made within the target, however most strategic

infrastructure cases are not. Scotland looks successful with making decisions within agreed timescales. However, we do not know what the timescales are, and they may provide for more time and flexibility on a case by case basis compared to other jurisdictions.

Decision times:

- While NI decision times for local, major and regionally significant applications exceed their respective 15 and 30 week targets, with 19 weeks (local) and 38.6 weeks (major), there has been an improvement of 21 weeks in decision times for major applications in the past year. Local applications have stayed the same. ***It may be of interest to the Committee to find out what this recent improvement in major applications can be linked to.***
- Of the five regionally significant applications, three have progressed to ministerial recommendation, and two are awaiting. All have exceeded the 30 week target. ***It may be of interest to the Committee to get an update on these.***
- In terms of comparisons, the differences in figures used in statistical reports across jurisdictions meant that not all jurisdictions were completely comparable. It appears that NI takes longer than Scotland to make decisions on local applications with 19 weeks, compared to just over 11 weeks for Scotland.
- For major applications, NI with 36.6 weeks takes longer than England with 28 weeks. Scotland is not as clear cut due to quarterly figures: with 22.4 and 52.9 weeks. However, this averages as 37.7 weeks (April-September), which indicates NI is slightly quicker.
- Wales takes between 15-17.5 weeks to makes decisions on applications, however there doesn't appear to be a breakdown between local and major. But this does suggest that NI on average takes longer.
- NI takes an average 51.4 weeks to make a decision on renewable energy applications. Ireland took on average 36 weeks for decisions on

strategic infrastructure (which includes, and is not limited to, renewable energy development which may impact the figure). Comparable data for other jurisdictions was not available at the time of writing.

- A draft revision to renewable and low carbon energy planning policy has been consulted on to help NI achieve 80% renewable energy by 2030. Understanding that there are many other factors impacting the development of renewable energy in NI (e.g. grid connection, availability of funding/support etc), it remains to be seen whether a change in planning policy can help achieve a 36% increase in under six years
- It may be of interest to get an update on the UK Government plans to review the planning system in light of the proposals suggested under the previous UK Government's Accelerated Planning Service consultation (detailed in s.1.2). And whether there has been any consideration of this at the NI level?
- From DfI's planning statistic reports, it appears that decision times are measured from the point of validation, and not the point of application. While this method may be the same for other jurisdictions, it does make it difficult to get an appreciation of the full process, and where delays may ultimately lie, for example, the point from application to validation.

2 Consultee response times

The following section gives an overview of statutory consultation response times to planning applications. It should be noted that not all jurisdictions provide a complete overview of all statutory consultees, in a similar format to the reports completed by DfI on statutory consultee performance. Wales provides a brief overview in its general report on planning performance, however the latest publication appears to be from 2018/19.

In most jurisdictions, apart from Ireland, there is a duty for statutory consultees to report on their performance to the respective departments responsible for planning. Where available, this section considers those reports so as to give an example of some of the response times from individual organisations.

It should be noted that a statutory consultation for the purpose of the NI report, is a consultation marked as 'statutory' for 'full', 'outline' and 'reserved matters'²¹. However, this may not be the case for other examples considered. For example, the Environment Agency also includes (potentially smaller and faster) non- statutory consultations e.g. applications including extensions and pre-application enquiries.

2.1 Northern Ireland

Under the Planning NI Act 2011 (s.229 (3)) and the associated [Planning \(General Development Procedure\) Order \(Northern Ireland\) 2015](#) (as amended), consultees must provide a 'substantive response' within the statutory 21 days (28 days for Environmental Impact Assessment (EIA) applications), or a period agreed in writing between the consultee and the planning authority²².

[Schedule 3](#) of the GDP Order lists the organisations that must be consulted with i.e. the statutory consultees.

Under s.13, the council (or Department) shall, in determining the application, **take into account** any response from a consultee. Therefore, this implies that ultimately the final decision is up to the planning authority and whether they act upon the advice in the response, once all material considerations are taken into account. That being said, the GDP Order does not appear to define "take into account". ***This begs the question as to whether there is a form of consistent working definition utilised across councils?***

Under s.16 of the GDP Order, there is a requirement on statutory consultees to report to the Department on their compliance with requirements and provide an explanation if timeframes aren't met.²³

²¹ Ibid p.4

²² DfI [online] [Statutory Planning Consultations - Quarterly & Annual Reports | Department for Infrastructure](#). A period beyond 21 days may be agreed for 'exceptional circumstances'.

²³ [The Planning \(General Development Procedure\) Order \(Northern Ireland\) 2015](#)

According to DfI (2020), the number of statutory consultations sent to statutory consultees has been increasing over the years, putting pressure on consultee resources²⁴.

That being said, recent figures (2024) have shown a few drops due to fewer planning applications received over the COVID-19 period in 2019/20 and 2020/21. This picked up to one of the highest levels in 2021/22. However, since this peak, the levels of statutory consultations sent to statutory consultees has declined to the lowest level over the past seven years²⁵.

Appreciating that there are many other elements impacting performance, the Department has highlighted that statutory consultation response times and performance have been considered as one of the main causes of delay in planning applications over the years²⁶.

2.1.1 Response times

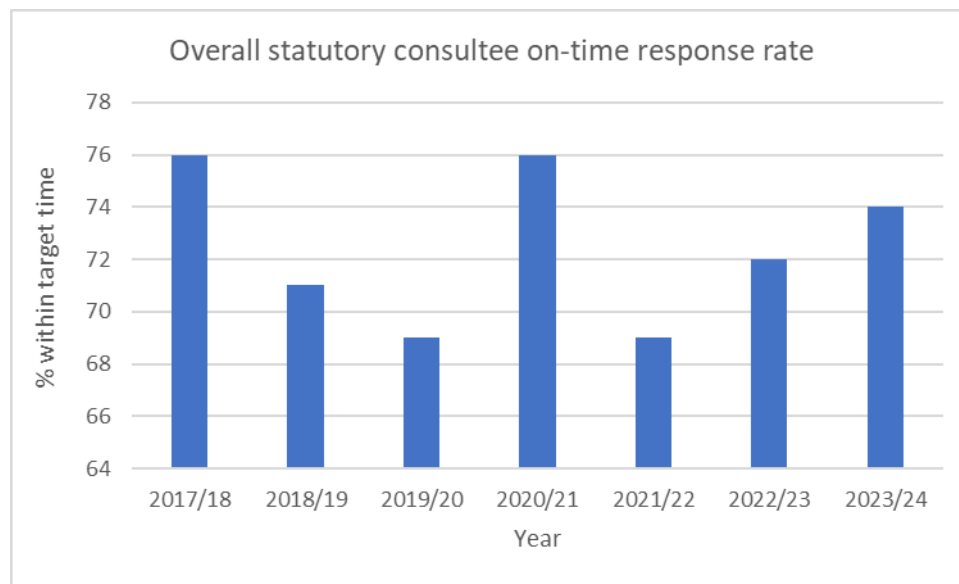
Statutory consultee response times are referred to in this paper in relation to DfI Statutory Consultations Annual Performance Reports. This is presented as the percentage of responses received on time (or within the 21 day response target or extended target). According to the latest statistics (2024), over the last seven years, 69-76% of statutory responses have been on-time²⁷. This can be seen in figure 2.

²⁴ DfI (2020) [Northern Ireland Statutory Planning Consultations Annual Report 2019/20](#) p.3

²⁵ DfI (2024) [Statutory Consultations Annual Performance Report \(infrastructure-ni.gov.uk\)](#) p.4

²⁶ DfI (2020) [Northern Ireland Statutory Planning Consultations Annual Report 2019/20](#) p.3

²⁷ DfI (2024) [Statutory Consultations Annual Performance Report \(infrastructure-ni.gov.uk\)](#) p.8

Figure 2: Overall statute consultee on-time response rate

Source: Developed from DfI (2024) [Statutory Consultations Annual Performance Report](#) (p.12)

For 2023/24, 74% were on time. As expected, as the scale of the application increases, fewer responses were made on time, for example:

- locals at 76%
- majors at 55%
- regionally significant at 27%.²⁸

Response rate by consultee

The following section gives a breakdown of response rates by statutory consultees during 2023/24. It should be considered that the number of consultation responses required by each statutory consultee may have an impact on their overall on-time response rate. In other words, those with more responses may miss more deadlines than those with fewer, due to resource pressures etc.

²⁸ *ibid*

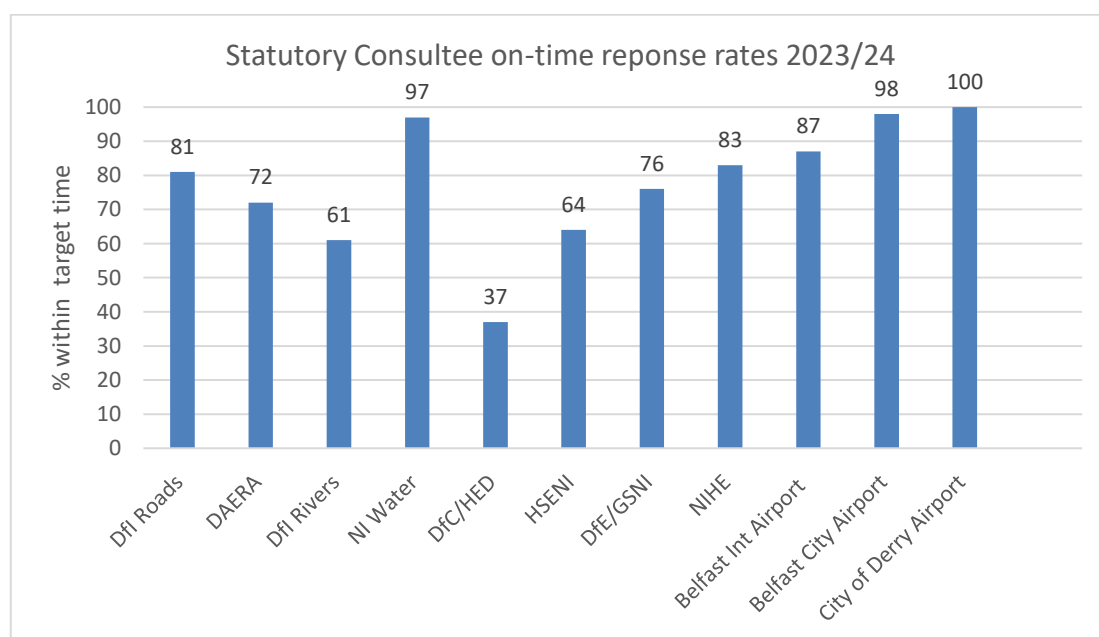
Potential considerations:

- The committee may have interest in exploring/confirming this in the context of resourcing.
- For example, could more resourcing for statutory consultees with the greatest level of work speed the system up?
- How much does each statutory consultee spend on responding in terms of costs and hours?

During 2023/24 DfI Roads received the most with 45%, DAERA EMF NIEA 18%, NI Water 14%, DfI Rivers 11% and DfC / HED 11%. According to the DfI Performance report, together these five consultees accounted for 98% of the statutory consultations raised during the year²⁹.

During 2023/24, the on-time response rates across all statutory consultees ranged from 37% – 100%. This can be seen in figure 3.

Figure 3: Statutory Consultee on-time response rates 2023/24.



Source: Generated from DfI (2024) [Statutory Consultations Annual Performance Report](#).

²⁹ Ibid p.11

2.2 England

[The Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#) lists the statutory consultees that must be consulted on in relation to planning applications (Sch 4).

Statutory consultees must provide a 'substantive response' within 21 days³⁰. This may include a response that they do not wish to make any representations.

The legislation requires that the local planning authority must, in determining the application, take into account any representations received from any consultee.

Statutory consultees must report annually on their performance in providing responses within the required response time, and provide an explanation should they fail to meet the statutory times.

Potential review

The previous UK Government commissioned a review on statutory consultees. The then Secretary of State Michael Gove said in a [speech](#) in December 2023 that the review would consider whether the current group of consultees is right, whether the performance reporting is effective, and whether the absence of a reply within an appropriate timeline should be treated as a green light, rather than a red one.

However, the report was not published before the election. The latest reference to it was in a [Parliamentary response](#) in April 2024 when the then Minister said it would be published "in due course".

It remains to be seen whether anything similar will be taken forward under the new Government.

2.2.1 Response times

Unlike NI, there does not appear to be a similar overview of statutory consultee performance and response times in England. However, where publicly

³⁰ For further information also see [Consultation and pre-decision matters - GOV.UK \(www.gov.uk\)](#)

available, the following section provides information from performance reports of some individual statutory consultees to give an indication of response times.

Environment Agency

The Environment Agency in England reports on its performance as a statutory consultee in planning³¹:

- In the period from 2023 to 2024, the Environment Agency took an average of 18 days to respond to consultation requests.
- Responded to 91.7% of planning application consultations (including extensions) and pre-application enquiries within 21 days or such other period agreed in writing.
- Extensions beyond the 21 days (an average of extra 12 days) were agreed for 13.8% occasions.

Natural England

In Natural England's report on its performance as a statutory consultee, in 2022-2023³²:

- Took an average 12.38 days to respond to consultation responses.
- Responded to 86.80% of consultations within 21 days or otherwise agreed deadlines (not including pre-application consultations).
- Requested an extension for 4.26% of planning application consultations.

2.3 Wales

The [Town and Country Planning Act 1990](#) and associated [Town and Country Planning \(Development Management Procedure\) \(Wales\) Order 2012 \(as amended\)](#), identifies statutory consultees (Sch 4) and requires them to give a 'substantial response' within 21 days (30 days for EIA applications).

³¹ EA [Environment Agency's planning consultation response timeliness: 2023 to 2024 - GOV.UK](#)

³² Natural England [2022-23 Annual report to the Department of Levelling Up, Housing and Communities](#)

The planning authority must not determine the application until at least the 21 days (or 30 days for an EIA). The legislation states that the local planning authority must in determining the application take into account any representations received from a consultee.

Statutory consultees must report upon their performance in responding to consultations on planning applications.

2.3.1 Response times

Wales provide statistics on statutory consultee performance in its Annual Planning Performance reporting. However, the latest are provided for April 2018 to March 2019, and there do not appear to be anything more recent publicly available.

Statutory consultee responses made within the required time frame, range from 77.7% to 99.9%³³.

2.4 Scotland

[The Town and Country Planning \(Development Management Procedure\) \(Scotland\) Regulations 2013](#) lists statutory consultees under Schedule 5. It requires statutory consultees to respond within 14 days. For major or national applications, a longer period can be agreed between the planning authority and the consultee.

The Regulations state that where a consultee fails to respond within the timescale the planning authority is not obliged to await a response. However, guidance does state that planning authorities will wish to consider the potential impact of proceeding without the views of a consultee³⁴.

³³ Welsh Government [All Wales Planning Annual Performance Report 2018/19](#) p.9

³⁴ Scottish Government [Planning circular 3/2022: development management procedures](#)

2.4.1 Response times

Similar to England, there does not appear to be any statistics on the overall performance of statutory consultees. However, statutory consultees do provide annual reports on their performance to the Scottish Government.

As an example, Nature Scotland (Scotland's Nature Agency) reported that in April 2020 to March 2021³⁵:

- 94% of responses to planning consultations within agreed service timescales (including extensions to statutory deadlines).
- 67% of EIA responses provided within 28 days
- 61% of non-EIA responses provided within 14 days

2.5 Ireland

Under the [S.I. No. 600/2001 - Planning and Development Regulations, 2001](#) (s.28), a planning authority must send notice (and a copy) of an application to certain bodies where it feels the application may impact e.g.:³⁶

- To Bord Fáilte Éireann if it might impact tourism;
- To National Trust, Minister for Arts, Heritage, Gaeltacht and the Islands, and the Heritage Council for impacts on natural and built environment and protected sites and structures etc.
- To Fishers Board and Waterways Ireland etc if it might impact water quality structures etc.
- To the Health Board if it might impact health.

The notified body has five weeks to make a submission or observation. Should this not be made within the five weeks, the planning authority may determine the application regardless.

In terms of performance reports and response times of the bodies listed under the 2001 Regulations, there does not appear to be anything published.

³⁵ See Appendix :Consulting Statistics Table 1 Planning [Planning Performance Framework Annual Reports | NatureScot](#)

³⁶ More detail is provided in [s.28 of the 2001 Regulations](#)

Perhaps this is because the bodies listed are not classed as statutory consultees, and there is no statutory requirement to respond and report, like there is under the NI system.

It remains to be seen whether changes will be made under the [Planning and Development Bill 2023](#) which aims to reform the planning system in Ireland.

3 Observations

The legislation for statutory consultees appears to have some similar requirements across the UK jurisdictions compared to Ireland. For example:

- NI, England and Scotland all have a similar list of statutory consultees.
- England, Wales and NI have similar deadlines of 21 days (with some allowing 28 days for EIA applications). However, Scotland is shorter with 14 days for non-EIA responses, and 28 days for EIA, with agreed deadlines for major or national.
- In Ireland, notification of an application is to be sent to certain organisations where the planning authority feels there may be an impact. However, it appears to be left to the discretion of the planning authority as to whether notification will be sent.
- The notified organisation does not appear to be under any obligation to respond, and has five weeks to make a response should it wish to. This compares to the UK jurisdictions, where even a response of no comment is expected.
- In the UK jurisdictions, the planning authority must take statutory consultee responses into consideration.
- Compared to the other UK jurisdictions, Scotland states in its Regulations that where a consultee fails to respond within the timescale, the planning authority is not obliged to await a response. However, Scottish guidance does state that planning authorities will wish to consider the potential impact of proceeding without the views of a consultee. It may be of interest to find out if this is similar to the circumstance in NI?

- In Ireland, should a submission not be made within the five weeks, the planning authority may determine the application regardless.
- The previous UK Government suggested the idea of considering whether the absence of a reply within an appropriate timeline should be treated as a green light, rather than a red one. Further information may be required from DfI in relation to how this approach compares to NI, and whether this is something that has been considered?
- All the UK jurisdictions have a requirement for statutory consultees to report on their performance, however this does not appear to be the case in Ireland.

In terms of comparing response times, not all jurisdictions provide an overview similar to NI. Therefore, it has not been possible to make a complete comparison. However, from the information in the paper, the following summaries can be made:

- NI appears to provide the most detail on statutory consultee response times being the only jurisdiction to publish a separate annual performance report on planning statutory consultees. Wales provided statutory response times in its Annual planning report, but the latest dates are for 2018/19. Having a similar response target to NI of 21 days (or 30 for EIA applications), this makes Wales the most comparable.
- In NI, over the last 7 years, 69-76% of statutory responses have been on-time, with 74% for 2018/19³⁷. This compares to Wales with 77.7% to 99.9% for 2018/19.
- For England and Scotland, the paper refers to specific statutory consultee performance reports, however this does not give as complete a picture.
- Natural England responded to 86.80% of consultations within deadlines in 2022/23, compared to 72% across all statutory consultees in NI 2022/23.

³⁷ DfI (2024) [Statutory Consultations Annual Performance Report \(infrastructure-ni.gov.uk\)](https://infrastructure-ni.gov.uk) p.12

- Environment Agency responded to 91.7% of planning application consultations in 2023/24. Compared to 74% for statutory consultees in general for 2023/24 in NI.
- It should be noted that a statutory consultation for the purpose of the NI report, is a consultation marked as 'statutory' for 'full', 'outline' and 'reserved matters'³⁸. However, this may not be the case for other examples considered. For example, the Environment Agency also includes (potentially smaller and faster) non- statutory consultations e.g. applications including extensions and pre-application enquiries.
- Nature Scotland's response rate for 2020/21 was 61% within 14 days and 67% within 28 days. This compares to 76% in-time responses across all statutory consultees in NI within 21 days (or extended target where applicable).
- Ireland does not appear to publish data on statutory consultee response times, therefore comparison was not possible.

4 Review of statutory consultees

In 2019 a [Review](#) was carried out on behalf of DfI examining statutory consultees and their performance. One of the areas identified was the need to improve the quality of applications. The following section explores some of the recommendations made in terms of checklists for applications and validation dispute mechanisms. Detail on other recommendations can be found in the full report.

4.1 Checklists

The review highlighted that poor-quality applications and the subsequent need for multiple submissions of further information puts significant burden and delay on the planning system in general. It was felt by officials and statutory consultees, that the validation "bar" was set too low, allowing low quality applications to clog up the system. And that applicants merely use the system

³⁸ Ibid p.4

for statutory consultees to “MOT” their applications. For example, DAERA indicated that it sent back around 30% of consultations due to poor quality/lack of information³⁹.

Therefore, it was suggested that there is a need to develop a mechanism to formally address the common shortcomings in planning applications. The report referred to a checklist for applicants that Belfast City Council had been piloting at the time⁴⁰. Belfast has published a [checklist](#), and since May 2023, requires applicants to refer to it. Further information is available [here](#).

Off the back of the 2019 review and other planning reviews (by [DfI](#) and [NIAO](#) early 2022), DfI carried out a [consultation](#) on changes to improve the quality of planning applications from November 2022 to January 2023. The proposal included amending [The Planning \(General Development Procedure\) Order \(NI\) 2015](#) to provide for the introduction of ‘validation checklists’ to improve the quality and completeness of applications. Further information can be found in the [consultation document](#).

On 8 October 2024, the [Infrastructure Minister announced](#) amendments to the Order in line with the Departments’ Planning Improvement Programme, for the introduction of application validation checklists.

4.2 Dispute mechanism

The [consultation](#) proposes the introduction of a validation dispute mechanism where an applicant and planning authority can dispute whether an application is valid. This would be similar to the circumstances in England or Wales⁴¹:

- In England an applicant can appeal against a non-validation notice served by the planning authority, through the usual ‘non-determination’ process once the statutory determination period has expired. This is provided under [The Town and Country Planning \(Development](#)

³⁹ [Role of Statutory Consultees in the Planning Process in Northern Ireland \(Sept 2019\)](#) p.28

⁴⁰ *ibid* p.29

⁴¹ DfI [Public Consultation - Planning Application Validation Checklists \(infrastructure-ni.gov.uk\)](#)

[Management Procedure\) \(England\) Order 2015](#). For further information see the [DfI Consultation](#) (p13).

- In contrast, Wales provides for a ‘stand-alone’ validation dispute mechanism which deals solely with the consideration of the information requirements. This allows an applicant to appeal a non-validation notice within 2 weeks. This is provided under the [Town and Country Planning \(Validation Appeals Procedure\) \(Wales\) Regulations 2016](#). For further information see the [DfI Consultation](#) (p13).

In its response to the consultation, the Royal Town Planning Institute (RTPI) stated that it agreed on the need for a validation checklist for NI and a stand-alone dispute mechanism similar to Wales⁴².

Another outcome of the 2019 review was the establishment of a [Planning Statutory Consultee Forum](#). With a revised format in 2023 in line with the new Planning Improvement Programme, the Forum consists of NICS departments, public bodies (those identified as statutory consultees), council representatives and Planning Group staff.

Under its [Terms of Reference](#) (as of October 2023), the objectives of the Forum include:

- monitoring performance and practice around the statutory consultation process and identifying areas of good practice;
- acting as liaison between statutory consultees and local government to encourage effective and efficient engagement between parties;
- considering strategic issues impacting on the planning system in relation to statutory consultations and other necessary consultee support.

The forum is to meet at least three times a year. The first meeting of the revised Forum was held October 2023.

⁴² RTPI Response to validation checklist consultation: [planning-application-checklists-rtpi-response.pdf](#)

It may be of interest to the Committee to find out:

- Will a formal checklist require additional resources to councils? If so, where would this come from?
- Understanding each council will be given flexibility, how will a level of consistency be ensured. Will there be guidance?
- Will there be a validation checklist for regionally significant applications?
- Will any dispute mechanism be handled by the Planning Appeals Commission (PAC)? Does the PAC have the resources and capacity? Where will support come from?
- Will there be monitoring of the new validation process in terms of the time it takes, how it impacts the quality of applications and the overall speed of planning application decisions?
- Would the Committee like to receive further information on the operation of the Forum and any work it is conducting?