

# Advice produced by The Planning Inspectorate for use by its Inspectors

## REGIONAL STRATEGIES – IMPACT OF CALA HOMES LITIGATION

1. On 27 May 2010 the Rt Hon Eric Pickles MP, Secretary of State for Communities and Local Government, wrote to Council leaders highlighting the Coalition Government's commitment to rapidly abolish Regional Strategies (RS) and return decision making powers on housing and planning to local councils. The letter is available [here](#). That commitment is also set out in the '[The Coalition: our Programme for Government](#)'.
2. The letter makes clear that before any formal announcement on revocation of RS, 'LPAs and PINS [were] to have regard to the letter as a material consideration in any decisions they are taking'.
3. On [6 July 2010, the revocation of Regional Strategies was announced](#) with immediate effect further to [section 79\(6\) of the Local Democracy, Economic Development and Construction Act 2009](#).
4. The 6 July revocation decision was then subject to challenge in the Cala Homes (South) Ltd case ([2010 EWHC 2866](#)). This was decided on 10 November 2010 and the outcome was to quash the 6 July revocation. The Secretary of State has decided not to appeal this decision.
5. The effect of the Cala Homes decision is twofold:
  - The 6 July revocation decision has been quashed and as a consequence, the RS as it stood on 5 July forms an ongoing part of the development plan.
  - However, the intention to abolish RS remains as announced on 27 May 2010. This intention will be given statutory effect in due course.
6. A [written Ministerial statement](#), [Chief Planner's letter](#) with proposed Localism Bill clause attached and a [DCLG media statement](#) have been issued today.
7. The starting point in considering any appeal or call-in remains [s38\(6\) of the Planning and Compulsory Purchase Act 2004](#). Until any further announcement is made and/or legislation to formally repeal or revoke RS is implemented, the Cala decision means that RS is part of the development plan on an ongoing basis.
8. The Secretary of State has made clear that the proposed abolition of RS remains a Government commitment that Inspectors should continue to take into account as a material consideration where relevant to their casework.
9. Parties seeking to rely on RS should be advised to draw Inspectors' attention to the relevant policies that require to be considered and to provide copies of these.
10. Advice on handling casework subject matters covered by RS is in [Annex A](#) for appeals and call-ins, and in [Annex B](#) for DPDs.
11. Further advice will be provided should any of the policy circumstances change and in any case when a formal announcement is made or legislation receives Royal Assent.



**APPEALS, CALL-INS, RS - HOUSING SUPPLY AND OTHER AFFECTED POLICY AREAS**

1. Following the Cala Homes decision, Inspectors will need to consider the RS as part of the development plan in all cases where it contains relevant policy, noting that the Secretary of State has made clear that his letter of 27 May 2010 foreshadowing the intended abolition of the RS still stands and should be taken into account as a material consideration. The key questions for an Inspector considering the potential relevance of intended RS abolition to a piece of casework will be to identify whether the case turns on or refers to RS policy, and if it does, to identify what action to take in the interests of fairness to the parties.
2. In appeals submitted after the RS revocation announcement on 6 July 2010, the relevance of RS to the case may not be evident from the file as RS is unlikely to have been addressed by the parties. PINS casework staff are screening cases and identifying those where parties views need to be sought. In some cases applications will have been subject to appeal on the basis of the RS not being in place. Casework staff and Inspectors will find it difficult to judge whether there is an RS element in such cases. Para 9 of the PINS note makes clear that the parties should be asked to draw the Inspector's attention to the relevant policies that need to be considered in such cases.
3. There will inevitably already be cases with RS relevance already with Inspectors, and we particularly ask for your vigilance in identifying and considering those cases where RS policies may be relevant and whether to refer the question of relevance back to the parties if this has not already occurred.
4. The following approach has been developed to assist in determining which cases may merit reopening, which may be dealt with by a reference back to parties for comment and which cases may not need any additional action:
  - (a) where RS policy has no material relevance because the decision is of limited (local only) scale and impact and the decision-maker can rely on local statutory development plan policy alone as would have been the case before 6 July 2010, no further action is required;
  - (b) where it appears to an Inspector that RS policy may be material as a consequence of the significant (greater than local) scale or impact of the proposal, but the cases put by the parties make no reference to RS, the Inspector must refer to the parties, seeking a view as to the materiality and weight of RS policies. Chart should be informed.
  - (c) where a decision relies on both local policy and RS policy on the same issue, it is possible that the local statutory development plan policy can be relied upon if by applying less weight to the RS policy the outcome does not change;
  - (d) where both local policy and RS policy are relied upon on the same issue, but the RS is relied on to a greater extent and if as a result of applying reduced weight to the RS the outcome is less certain or could change, then the parties' views should be canvassed (Chart should then be advised); and
  - (e) where the parties' cases rely primarily on the RS, then the parties should be canvassed. (Chart should then be advised.)

- (f) If there is a reference to the parties or a re-opening, the Inspector should consider whether the case can be completed following consideration of issues raised by the parties or whether a postponement or adjournment is warranted.

**DPDs, RSS POLICY AND HOUSING SUPPLY AND OTHER AFFECTED POLICY AREAS**

1. The first guiding principle in development plan work is where possible to ensure that housing and other sessions that respond to RS policy for which parties may not be fully prepared do not proceed immediately, or that space is provided for relevant issues to be revisited before the examination is closed. This may require changes to examination timetables.
2. **Preparation before the pre-hearing meeting (PHM) or pre hearing correspondence** – Make clear through the PHM or in PH correspondence that the potential materiality of housing and other issues that respond to RS policy will be discussed in relevant hearing sessions.
3. **Preparation after the pre-hearing meeting (PHM) and RS policy sensitive /housing sessions scheduling** – Defer discussion of RSS policy sensitive topics such as housing until later in the examination to enable parties to revise documentation.
4. **Examination hearings in progress** - Defer discussion of housing and other policy topics driven by RS policy until later in the examination to enable parties to revise documentation. An adjournment may be needed if significant policy analysis is required.
5. **Examination hearings in progress and housing and/or other RS policy-driven issues are the current topic** – Seek parties' views. Where possible, continue on the basis of existing national and local policies and figures but indicate that the matter may need to be re-visited in the light of RS policies and that additional written analysis and/or discussion of the implications of RS policies may need to be sought. An adjournment may be needed if significant policy analysis is required.
6. **Examination hearings in progress but housing and/or other RS policy-driven issues are already dealt with** – Seek parties' views. Inform examination parties that it may be necessary to re-open the hearing to consider RS policy implications. The timing of re-opening should be set having regard to the nature of the policy analysis required.
7. **Report is being prepared** - Seek the views of the parties. The hearing will need to be re-opened if you consider that RS policy implications are potentially material to your findings or if parties take a strong view that they need to address you on the implications of RS policy.