

Planning Enforcement Fund – Eligibility Criteria

The Department for Communities and Local Government (DCLG) has introduced a new time-limited Planning Enforcement Fund for all local planning authorities in England. The scheme provides a grant contribution to local planning authorities for securing a Court injunction to prevent actual or apprehended breaches of planning control.

The scheme will run for the financial years: 2014/15 and 2015/16 commencing 10 January 2015 and ending 31st March 2016. Ivy Legal Ltd administers the scheme on behalf of DCLG.

What is available?

1. You are limited to one application per site.
2. The maximum amount of grant you may apply for is £10,000 (or 50% of your estimated legal costs, whichever is the lesser) towards the cost of securing a Court Injunction in the High Court or County Court. Your costs estimate should set out details of anticipate legal costs likely to be incurred in preparation of issuing legal proceedings and attending Court. Non-legal specialist officer time must not be included. The local planning authority is responsible for any legal costs incurred in excess of £10,000 or in excess of any lesser sum applied for and granted.
3. Funding is not available:
 - If Court proceedings have commenced; or
 - Where an appellant appeals against an enforcement notice issued by the local planning authority, within 28 days of receiving the notice, to the Secretary of State for Communities and Local Government.

Eligibility Criteria

4. The fund is solely for the use by local planning authorities, in England, towards the cost of securing a Court injunction (High or County Court), under Section 187B of the Town and Country Planning Act 1990, against actual or apprehended breaches of planning control to be restrained. Funding is only available where other enforcement options have been, or would be, ineffective, or where there have been persistent breaches of planning control over a long period.
5. In order to be considered for an award of a grant, each application for funding should address the following criteria in approximately 1,000 words in total (with a final word count):-
 - Confirmation the commencement of injunction proceedings is authorised; the source of that authority (e.g. planning committee/named delegated officer) and the date obtained;

- Confirmation your authority has taken legal advice on the proposed injunction (internal or external) from whom and on what date;
 - Demonstrate why the action is in the general interest;
 - Explain the degree and flagrancy of the breach of planning control;
 - Set out the enforcement history for the site e.g. what other measures have failed over a long period of time;
 - Explain any urgency needed to remedy the breach;
 - Set out the planning history of the site;
 - Provide details of previous planning decisions in relation to the site;
 - Set out consideration of the Public Sector Equality Duty (section 149 of the Equality Act 2010) and Human Rights Act 1998;
 - Demonstrate that an injunction is a proportionate remedy in the circumstances of the individual case.
 - Amount of funding requested, including a breakdown of estimated legal spend on legal costs in 2014-15 and 2015-16 (grant is only available for spend in these financial years). Non-legal specialist officer time must not be included in your estimate.
6. By applying for funding, you are agreeing to provide anonymous case worked examples to DCLG if requested. They may be disseminated to local planning authorities to assist the sharing of best practice during the funding period.

Supporting Information

7. To qualify for consideration, your authority is required to confirm it has adopted the enforcement best practice recommended in paragraph 207 of the National Planning Policy Framework and published its plan to manage enforcement of breaches proactively. Your authority's enforcement plan must have been published at least three months prior to applying for grant and you are required to confirm adherence to the recommendations of the National Planning Policy Framework of how your authority:
- Monitors the implementation of planning permissions;
 - Investigates alleged breaches of planning control; and
 - Take enforcement action whenever it is expedient to do so.
8. To support the application for funding your authority will be required to provide an active web link for your published local enforcement plan together with written confirmation that you are adhering to the objectives of the plan in a positive, proactive and proportionate way and have been doing so for at least the previous three months.

Assessment of Applications

9. Ivy Legal Limited will assess the applications for funding against the eligibility criteria in: January, April, July and October. Applications for grant must be received no later than the last working day of the relevant application month. Applications for grant and the required supporting information must be sent electronically to: applications@planningenforcementfund.co.uk The last date for

applying for grant is Monday, 11th January 2016.

10. Ivy Legal has a dedicated email account for answering questions: info@planningenforcementfund.co.uk together with a frequently asked question section: www.planningenforcementfund.co.uk
11. If successful, you will receive payment from the Department for Communities and Local Government in the quarter after receipt via Section 31 grant (Local Government Act 2003) in the relevant financial year e.g. application submitted April payment July, apply July payment October. Where possible, applications received in January and February will be paid in March. Last payment of grants will be in March 2016.

The Department for Communities and Local Government intends to process all successful applications received in January and February 2015 and pay the grant before 31st March 15. Only the 2014/15 element of grant will be paid in the current financial year with the balance in 2015/16 .

12. You may apply for support up to a maximum of four times during the period the fund is available. This is limited to one application in 2014/15 and three applications in 2015/16. Financial years run from 1 April to 31 March the following year.
13. There is no guarantee your application under this scheme will be successful and there is no right of appeal.

After the court proceedings

14. By applying you are confirming that any costs recovered, following court proceedings supported through this fund, will be recycled into enforcement action for your local authority's use. Where costs are awarded against the local planning authority you will be responsible for meeting them.

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