COSLA Vision
1. The single focus of COSLA and local authorities is to improve outcomes for communities. Local government is at the heart of the government’s focus on prevention, service integration and “place”, effective reform and strong local services are more important now than ever. Adequate resources and effective use of them are required to achieve the positive outcomes for communities. National governance should enhance the ability of local government to achieve this as effectively as possible and deliver those benefits to communities through:
   - Empowering local democracy
   - Integration not centralisation led by community planning
   - Focus on outcomes not inputs
   - Local democracy needs to be at the heart of improvement and accountability

National Standards
2. As we pointed out in our original response to the consultation the implementation of national standards could have a clear impact on local resourcing decisions, potentially diverting them from the frontline or other local priorities. The consultation was clear that costs will not be accepted as a justification for opting out of the national standard, yet given the potential implications on other locally decided priorities we do not agree with this. Local authorities should be able to opt out for social, health, environmental, financial, economic or local democratic reasons.

3. Given the very wide range of the enabling power it is entirely possible that national standards, when they are introduced, may not be cost neutral to local authorities depending on what the national standards are. Moreover, there may be significant variation in costs and savings across councils depending on the systems and process they already have in place and the level of enforcement required in different areas.

Planning Penalty Clause
4. We do not feel that the Financial Memorandum adequately reflects the potential costs and risks of the proposed planning penalty clause. As was made clear in our responses to the Planning Reform and Regulatory Reform consultations we do not support the introduction of planning fee penalty clause for ‘poorly’ performing planning authorities. The principle is counter-intuitive as ‘poorly’ performing councils will face reduced resources making it more difficult to improve performance. Our concerns with the planning penalty clause can be summarised as follows:
   - There is no definition of ‘good’ or ‘bad’ performance
   - A penalty clause focus on inputs and outputs, not outcomes
   - It does not enable a move towards full cost recovery
   - Planning authorities don’t control the whole planning system and delays are often from things outwith their control, such as section 75 agreements
There is no indication of the scale of a penalty nor the length of time it would apply.

5. We are concerned with the lack of definition around what good or bad performance is and what planning authorities will be judged on. The indication from the Financial Memorandum is that the focus will only be on ‘improving response time’. Time taken is not an indicator of quality, nor does it indicate where any problems may exist within the planning system – decisions made quickly are not guarantees of quality. The focus should be on outcomes and not inputs. The new Planning Performance Framework (PPF) is used to provide data focusing on outcomes, it supplements the Scottish Government statistics which now focus on average time taken. Applications, no matter the size, must be considered appropriately and take account of the public’s views and the impacts on communities – one size will not necessarily fit all.

6. Setting an arbitrary time limit does not recognise the importance of achieving good outcomes for communities given the long term impacts of planning decisions on place-making, poor quality planning decisions increase costs to both local authorities and businesses. Local authorities have to deal with failure demand which has much greater costs than a reduced fee income and causes a negative impact on the well-being and outcomes of communities while businesses have to deal with have to deal with the implications of rushed decisions. For example, at the Amazon development in Fife, Amazon did not want a quick decision, they were content with a 7 month decision time for a quality decision and outcome rather than rushed in 3 months.

7. The proposed penalty clause focuses on inputs, in one element of the planning system in the Development Management side. It does not focus on outcomes, a key feature of which is that 93% of all planning applications are approved. Audit Scotland identified an unsustainable funding gap in resourcing the development management system. The recent fee increase begins to address this but was welcomed only as an interim measure. It should be noted that this was supplemented by additional one-off funding for renewables in some councils. This is not a sustainable solution and an appropriate fee increase, as proposed in the Scottish Government’s consultation last year, is what is required.

8. Some local authorities advise that the fee increase has meant the pace of anticipated cuts has been slowed. However the planning service is subsidised by the taxpayer, it does not currently operate on a full cost recovery basis and the fee regime does not address the funding gap faced by authorities particularly when dealing with complex or locally controversial applications, such as for wind turbines, two examples of which are appended to this report. The Audit Scotland report ‘Modernising the Planning System’ published in September 2011 showed that cost recovery had fallen from 81% in 2004/05 to 50% in 2009/10. It is worth noting that this report focused only on the costs of development management and once you add in the other elements, such as development planning, cost of committees etc. the funding gap is even greater (as showing in the examples in appendix one). The recent 20% fee increase only slightly improves this position. It is vital that a sustainable fee regime is developed and introduced as soon as possible to deal with the anomaly of tax payers subsidising large developers. Ironically, councils which
have been very successful in attracting inward investment are borrowing more from the corporate pot to subsidise the shortfall in planning income, as it is the large developments which have the lowest level of cost recovery. This has a direct impact on the services a council can provide and cannot be sustained.

9. Moreover, even if good performance is to be dictated by the time taken, under this proposal Planning Authorities are being held accountable for all delays even when they have no control over them. As shown by the Scottish Government’s planning data (Appendix Two) a key problem lies in securing legal (S75) agreements, not in reaching a Planning Permission (which is granted subject to legal agreement). The requirement for a legal agreement for major applications consistently doubles and almost triples the time taken to issue a decision. Such delays in this proposal are being attributed to planning authorities whereas they may be due to other stakeholders and arise due to a failure to secure development finance in the current financial climate. The planning penalty clause does not ensure that responsibility is appropriately attributed given the potential number of stakeholders and variables involved.

10. Additionally there is no indication of or limit on the potential level of fee reduction and it is therefore possible that the Minister could prevent a planning authority from charging any fees, reducing income to local government by £22.3m, which could have a serious impact on a local authority and all the other services they provide. Any reduction in fees will have a detrimental effect on service quality or any shortfall would have to be met from other front line services in local government, further impacting on outcomes for communities.

11. Regularly changing fees within local authorities if they become 'poor performers' will not help local authorities improve and will make it difficult for them to plan future spending, nor will it benefit businesses who may face varying fee levels. This will create inconsistencies across Scotland, and is at odds with as one of the principles of better regulation, to promote consistency.

12. The Financial Memorandum recognises that there is no clarity as to whether reducing fees may have a consequential impact on the number of applications submitted to poor performing authorities, if this were to reduce the number of applications this would have serious negative consequences for local economic recovery. We do not believe that the planning fee is the defining factor in determining development viability. There is no indication that the fee of £40,000 cited by one local authority for a £0.75 billion investment would have altered the investment decision, nor that lower fees lead to an increase in developments as fees are such a small part of major schemes. However, reducing fees is more likely to result in under resourced planning authorities which are unable to make quality decisions for communities.

13. Moreover, a penalty clause is not consistent with the principle of preventative spending and dilutes local democratic decision making and accountability. An approach which enables appropriate consideration of applications leading to quality outcomes, would in turn lead to reduced resources later relating to reduced failure demand. Focusing on speed is inconsistent with this and will lead to poorer
outcomes for communities and increased costs for local government. This runs contrary to COSLA’s vision and objectives for local government.

14. In conclusion COSLA do not agree that the Financial Memorandum adequately reflects the financial impacts of a planning penalty clause and the resulting negative impact that can have on outcomes. It is also not possible to predict whether every national standard introduced under the enabling power will be cost neutral, therefore local authorities should be able to costs to affect local variation where required.
Appendix One – Planning Costs

Case study 1 - Single 74m Turbine – Local Development – Fee £638
– 167 Letters of Objection
– 59 Letters of Support
– Landscape, Biodiversity and Archaeological Advice
– Neighbour Notification, Acknowledgement of representations and Notification of Decision (this alone exceeds the fee paid)
– Coordination, Assessment of submissions and proposal, site visit(s) report by Planning Officer

Total Cost to Council minimum £3,000
FUNDING GAP of at least £2,372
COST RECOVERY at 21%

Case Study 2 - Commercial Wind farm of 12 x 126m turbines – Major Development
– Fee £14950
– 247 Letters of Objection
– 198 Letters of Support
– Environmental Impact Assessment requiring Roads Engineering, Noise, Landscape, Natural Heritage, Archaeological Advice…etc.
– External consultation with SNH, H&SE, MOD….etc.
– Public Meetings
– Neighbour Notification, Acknowledgement of representations and Notification of Decision
– Coordination, Assessment of submissions and proposal, site visits, report by Planning Officer
– Committee process including Committee Site Visit

Total Cost to Council minimum £45,000
FUNDING GAP of at least £30,000
COST RECOVERY at 33%
Appendix Two – Scottish Government paper to the High Level Group

Statistics – Headline Figures

Major Developments without processing agreements (e.g. applications over 2ha or 50 houses)
- In Q1 decisions on all 83 major developments took an average of 65.4 weeks, by Q3 this had reduced to 58.9. When applications made before August 2009 (legacy cases) were removed the timescale reduced to a 36 week average.

- Average timescales for major housing developments had reduced from 104 weeks in Q1 to 66.8 weeks in Q3 (an 8 month reduction). This latest figure is almost halved when legacy cases are removed showing a 33.8 week average timescale.

- The requirement for a legal agreement for major applications consistently doubles and almost triples the time taken to issue a decision. 98 weeks in Q1, 131 in Q2 and 103 in Q3. This compares to 45, 54.8 and 36.4 weeks respectively for those applications not requiring a legal agreement.

Local Developments without processing agreements (e.g, applications under 2 ha or 50 houses)
- Decision making on local developments has remained fairly static with around a 12 week average.

- Local developments with legal agreements have reduced from 83 weeks in Q1 to 65.2 in Q2, this is still almost 6 times longer than those applications not requiring an agreement (11 weeks). When legacy cases are removed this falls to 48.5 and 10.9 weeks respectively.

- Local development (non-householder) reduced by just over a week between Q1 and Q3, from 16.9 to 15.5 weeks. This included data on 30 applications submitted prior to August 2009. When removed this reduced timescales to 14.1 weeks.

- Across all 3 quarters, decisions made under two months in this category have remained static at around 55% with 7 weeks the average time taken to come to a decision on these applications. Applications taking longer than 2 months have reduced by 2 weeks to 26.4 across the same period, this is reduced to 23 weeks when legacy cases are removed.

- Across all 3 quarters local housing developments have shown a 5% increase in the number decided within 2 months from 45.4% to 50.4%, and the average timescale for these has fallen slightly from 7.4 to 7.1 weeks.

- Householder applications remain fairly consistent across all quarters with an 8 week average for decision making, reducing to 6.6 weeks in 86% of applications in Q3.
Processing agreements
- 33 applications during the period had processing agreements attached to them. 28 of them were decided within the agreed period.
<table>
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<td>Under 2 months</td>
<td>2221 (54.8%)</td>
<td>7.1</td>
<td>2184 (53.7%)</td>
<td>6.9</td>
<td>2295 (55.8%)</td>
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<td>Over 2 months</td>
<td>1833 (45.2%)</td>
<td>28.8</td>
<td>1885 (46.3%)</td>
<td>24.2</td>
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<td>3587</td>
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<td>Under 2 months</td>
<td>3269 (86.9%)</td>
<td>6.8</td>
<td>3064 (85.4%)</td>
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<td>2819 (86.1%)</td>
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<td>Over 2 months</td>
<td>492 (13.1%)</td>
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<td>523 (14.6%)</td>
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All figures include legacy cases prior to 2009 for consistency. Staff in CAS are working on revising figures from Q1 and Q2 to remove applications submitted prior to August 2009.