

# OFFICE OF THE DEPUTY PRIME MINISTER

---

ODPM Circular 03/2003  
Office of the Deputy Prime Minister  
Eland House, Bressenden Place, London SW1E 5DU

---

13 March 2003

## LOCAL GOVERNMENT ACT 1999: PART 1 BEST VALUE AND PERFORMANCE IMPROVEMENT

This Best Value and Performance Improvement circular is divided into three parts:

1. **Introduction** from paragraph 1 to 27

2. **Statutory guidance** from paragraph 28 to 76 and **Annexes C, D and E**

Contains guidance to principal local authorities made under the provisions in Sections 3, 5, 6 and 19 of the Act.

3. **Other Guidance and Information**

Paragraphs 77 to 79                      Audit and inspection of the performance plan

Paragraphs 80 to 83                      Summary performance information

Paragraph 84 and **Annex F**              Further sources of information on best value and performance improvement

**Annex A**                                      Statement of Shared Priorities and the National PSA for Local Government

**Annex B**                                      Protocol on Central Government Engagement in Poorly Performing Local Authorities

# CONTENTS

Scope of the guidance	4
Section 1 – Introduction	4
Comprehensive performance assessment and improvement planning	6
Achieving performance improvement through best value	8
Section 2 – Valuing the workforce	10
Transferred staff	11
New joiners	12
Section 3 – Reviewing performance	13
Review programmes	13
Scoping of reviews	14
Challenge	15
Competition and procurement	16
Section 4 – Planning improved performance	19
Content of performance plans	20
Performance indicators and targets	20
Audit and inspection of the performance plan	21
Summary performance information	21
Section 5 – Further information	22
Annexes	
Annex A – The Statement Of Shared Priorities And The National PSA For Local Government	23
Annex B – Protocol On Central Government Engagement In Poorly Performing Local Authorities	27
Annex C – Handling Of Workforce Matters In Contracting	36
Annex D – Code Of Practice On Workforce Matters In Local Authority Service Contracts	47

Annex E – Performance Plan Requirements	51
Annex F – Further Information	53

## SCOPE OF THE GUIDANCE

1. This circular applies to all principal local authorities in England. It provides guidance on how they might meet the requirements of Part I of the Local Government Act 1999. It replaces DETR Circulars 10/99 and 02/01. Paragraphs 28 to 76 and annexes C, D and E consist of statutory guidance provided under Section 3 (the general duty), Section 5 (Best Value Reviews), Section 6 (Best Value Performance Plans) and Section 19 (Contracts: exclusion of non-commercial considerations) of the 1999 Act.
2. Separate guidance will be provided for other best value authorities: best value town and parish councils; police authorities; national park authorities and the Broads Authority; the Greater London Authority, Transport for London, and the London Development Agency; waste disposal authorities in England; metropolitan passenger transport authorities in England; and single-purpose fire authorities in England and Wales.

## SECTION 1 – INTRODUCTION

3. For many people, the services provided by their local authority have a very significant impact on their quality of life and provide their main experience of public services. It is vital that these services are delivered to a high standard, and in ways that are responsive to the needs of their users. Much depends on each council being committed to developing its own capacity to do better; on local government as a whole supporting this process; and on central Government playing its part. The Local Government White Paper, *Strong Local Leadership – Quality Public Services*<sup>1</sup>, set out a new performance framework within which the Government is committed to working in partnership with local government to secure a progressive improvement in authorities' performance<sup>2</sup>. It gives concrete expression to the 4 principles of public service reform:
  - **national standards:** a framework of clear and exacting performance standards, with performance independently monitored so that people can see how local services compare;
  - **devolution:** giving successful councils more freedom to deliver these standards;
  - **flexibility:** removing artificial bureaucratic barriers which prevent staff and authorities from improving local services; and
  - **choice and contestability:** expanding choice so that users of public services are given the kind of options that they take for granted in other walks of life, and taking full advantage of alternative means of provision where these would offer best value.

---

<sup>1</sup> *Strong Local Leadership – Quality Public Services*, DTLR, December 2001 [Cm 5327].

<sup>2</sup> One of ODPM's PSA targets is to secure a progressive improvement in authorities' performance, as measured by the comprehensive performance assessment. In three years time we want to see a significantly smaller number of authorities in the weakest categories and a substantially higher number classified as good or excellent.

4. The new framework is underpinned by the statutory provisions in the 1999 and 2000 Local Government Acts, and seeks to integrate these with the approach to public expenditure described in the Government's Spending Review<sup>3</sup>, and reflected in local and national Public Service Agreements (PSAs). In particular, the provisions in Part I of the 1999 Act require that services are:
  - responsive to the needs of citizens;
  - of a high quality and cost-effective; and
  - fair and accessible to all who need them.
5. The provision of quality services requires a concerted commitment to improvement from both officers and members. Council leaders and chief officers need to own the outcomes that best value is designed to achieve, and will the means.
6. The Government recognises that securing lasting improvements frequently requires the involvement of others working in partnership with local authorities. Local Strategic Partnerships are the principal expression of this in practice: these bring together service deliverers, local communities, those who use local services, the voluntary sector, social enterprises and businesses, in seeking to develop a concerted approach to both problem solving and service delivery. They can be supplemented by various other partnerships, ranging from local compacts between local authorities and the voluntary and community sector<sup>4</sup>, to delivery partnerships with the private sector. The Government confirms its support for making partnership working more effective, through for example, its commitment to introduce new trading powers in the Local Government Bill<sup>5</sup>, and its intention to make an Order under Section 16 of the 1999 Act to grant new powers to assist and encourage partnership working under best value.
7. Part I of the 1999 Act allows authorities considerable discretion as to how they achieve improvements in service provision in practice. The Government has no wish to limit that discretion through issuing additional guidance that could reinforce a culture of compliance: this would be inimical to real improvements in service delivery. Authorities nevertheless require clarity as to what is expected of them so that audit and inspection can operate with transparency and contribute to improvement planning. This circular is designed to achieve a balance between these two considerations.
8. The guidance draws upon the experience of best value since its introduction in April 2000, and upon later developments under the 2000 Act and in respect of local PSAs. It also draws upon the conclusions of the Best Value Review<sup>6</sup>, the report of the Local

---

<sup>3</sup> *Opportunity and Security for All – Investing in an enterprising, fairer Britain, New Public Spending Plans 2003-2006*, HM Treasury, July 2002 [Cm5570].

<sup>4</sup> *Compact on Relations between Government and the Voluntary and Community Sector in England* Home Office/Working Group on Government Relations 1998.

<sup>5</sup> Local Government Bill introduced in the House of Commons on 25 November 2002 available at <http://www.publications.parliament.uk/pa/cm200203/cmbills/009/2003009.htm>.

<sup>6</sup> On 1 October 2001 the then Secretary of State for Transport, Local Government and the Regions, Stephen Byers, announced a review of Best Value for local authorities in England. The conclusions of the review were published on 14 May 2002, further details are available on the ODPM website at [www.odpm.gov.uk](http://www.odpm.gov.uk)

Government Procurement Taskforce chaired by Sir Ian Byatt<sup>7</sup> (the “Byatt Report”), and on the joint Government/ Local Government Association (LGA) response to that report<sup>8</sup>.

9. The way that best value is approached also needs to take account of the statement of shared priorities agreed between central Government and the Local Government Association during the last spending review. These priorities are intended to help authorities and central Government focus their efforts in key areas where joint working is necessary to deliver improvements. The shared priorities are fundamental to the new performance framework, including the Comprehensive Performance Assessment (CPA), Best Value Performance Indicators, and authorities’ inspection and review programmes.
10. The shared priorities have also helped shape the national Public Service Agreement (PSA) for Local Government, which brings together a set of targets from central Government PSAs that can only be met in collaboration with local government. The Government expects the national PSA for Local Government to be shared with partner agencies at the local level. The statement of shared priorities and the national PSA for Local Government are attached at Annex A.

## **COMPREHENSIVE PERFORMANCE ASSESSMENT AND IMPROVEMENT PLANNING**

11. New guidance needs to place best value in the context of the comprehensive performance assessments (CPAs) of authorities, based on service and corporate judgements, which take account of authorities’ performance and their prospects for improvement. Such assessments build on the foundations which have been put in place by the provisions of the 1999 Act, and are consistent with them<sup>9</sup>. They help to identify authorities’ performance strengths and weaknesses, and provide a basis for the improvement planning which the duty of best value confers.
12. Responsibility for improvement planning rests firmly with authorities themselves. All authorities are expected to make the necessary arrangements to secure further improvements, irrespective of the overall CPA category into which they are placed. This guidance provides advice as to how the provisions in Part 1 of the 1999 Act can help authorities achieve those improvements. For its part the Government has announced that it will provide:
  - additional freedoms and flexibilities related to an authority’s performance;
  - a proportionate and co-ordinated audit and inspection programme;
  - support for authorities that require it; and

---

<sup>7</sup> *Delivering Better Services for Citizens*, Local Government Procurement Taskforce, June 2001.

<sup>8</sup> *Towards a National Strategy for Local Government Procurement*, ODPM & LGA, June 2002.

<sup>9</sup> *Comprehensive Performance Assessment – Ministerial Statement*, ODPM, December 2002 available at <http://www.local-regions.odpm.gov.uk/cpa/statement.htm>.

- where appropriate, forms of intervention designed to achieve sustained improvements in the key areas of performance.
13. Most of these measures are expected to be in place for all London boroughs, and county, metropolitan and unitary councils, from April 2003. The Government expects to mirror these measures in respect of district councils once CPAs have been completed for them (paragraph 19).
  14. Devolving power and responsibility means more opportunities for authorities to shape the services that they provide locally. The provisions in the Local Government Bill are designed to take this commitment forward. New freedoms and flexibilities have been announced to provide further support for local authorities to improve performance<sup>10</sup>. And the Government is to reduce unnecessary bureaucracy for all authorities by deregulating consent regimes and by removing unnecessary planning requirements where these impede service delivery. The CPA process also provides a robust framework for Government to provide additional freedoms where authorities have the capacity and capability to use them effectively. From April 2003, the better performing councils will have greater freedom over resources and planning, and for the very best, more radical freedoms which are designed to encourage real innovation in service delivery.
  15. Inspection programmes will be built around authorities' improvement proposals, in the light of the CPA outcomes. Inspectorates involved with local government are working together through the Local Services Inspectorate Forum (LSIF), and within its agreed statement of principles, to achieve proportionate and co-ordinated inspection and audit programmes<sup>11</sup>. This will reduce the demands of inspection and audit by eliminating duplication of effort, and by taking account of the associated risks to effective delivery. It will maximise the benefits by ensuring that scarce resources are effectively targeted and deployed. It will also enable a sharper focus on agreed improvement priorities. The presumption will be that the overall level of inspection for high performing authorities will be reduced. For excellent authorities there will be no compulsory inspections except where there are statutory requirements to inspect at specific intervals or where there are grounds for serious concern. For good authorities, there will be a reduction of at least 25% in required inspection activity from April 2003. This commitment does not rule out other inspection activity where authorities view it as helpful to their improvement planning, but such activity would be subject to the availability of appropriate inspection resources.
  16. For the majority of authorities, inspection work will be designed to fit their improvement planning arrangements in respect of both timing and content. Inspection work under Section 10 of the 1999 Act will focus on, and support delivery of, the duty of authorities to secure continuous improvement under Section 3 of the Act. It will be for authorities to consider with the Audit Commission and relevant Inspectorates how both audit and inspection can be programmed to support their improvement planning, including reviews carried out under Section 5 of the Act. Inspection programmes will be published in best value Performance Plans (see Annex E).

---

<sup>10</sup> Announcement by Nick Raynsford, Minister of State for Local Government and the Regions on 26 November 2002 on *Government action following Comprehensive Performance Assessment* available at <http://www.local-regions.odpm.gov.uk/freeflex/index.htm>.

<sup>11</sup> *Delivering proportionate and co-ordinated inspections and audit of local authority services*, LSIF, October 2002 available at <http://www.local-regions.odpm.gov.uk/bestvalue/inspection/principles/index.htm>.

17. The Government is also working with local government to develop a number of initiatives which will build capacity nationally. These include enhanced peer support and client assistance programmes; incentives to encourage the best authorities to engage in mentoring and support for those that would benefit; leadership and change management initiatives; and better dissemination of good practice.
18. The Government also intends to adopt a more co-ordinated approach to intervention where performance is unsatisfactory, and will use the CPA process as the principal starting point to assess the need for central Government support or intervention. Because CPA draws upon the different audit and inspection programmes that apply to specific services or functions, it helps to identify where authorities are failing to deliver the continuous improvement required by best value. It therefore provides potential ground for intervention under the Local Government Act 1999. The Government has appointed lead officials to work alongside all authorities categorised as poor, and a small number in the weak category: their role will be to act on behalf of Government collectively in encouraging those authorities to make an early start to their recovery planning. The Government and the LGA have agreed a revised protocol on intervention. This is attached at Annex B.
19. The Government is considering with local government and the Audit Commission how CPA can be best extended to district councils. The Commission has set out its initial methodology in its consultation paper *Delivering Comprehensive Performance Assessment for District Councils* and will continue to develop the framework with key stakeholders. CPA for district councils is expected to be completed by end of 2004, commencing in June this year.
20. At the same time, the Government will work with the Audit Commission and local government to ensure that the CPA scores for London boroughs, county, metropolitan and unitary councils are updated in a managed way at regular intervals, both as an incentive to improve and as a means to monitor progress. The methodology will be developed collaboratively, consistent with experience and the shared priorities.

## **ACHIEVING PERFORMANCE IMPROVEMENT THROUGH BEST VALUE**

21. The steps that the Government has taken – or proposes to take – following completion of CPA are designed to strengthen the ability of each authority to meet its statutory responsibilities under Part 1 of the 1999 Act. But if the necessary improvements to services are to be achieved, authorities will themselves need to make better use of the tools that are provided by the legislation, particularly the responsibility to set performance targets, carry out reviews, and publish performance plans. Many authorities have learnt to do just that over the last 3 years since best value was introduced. Others have yet to do so.
22. The Audit Commission's 2001 statement *Changing Gear*<sup>12</sup> and its more recent summary of the CPA experience *A Picture of Performance*<sup>13</sup> both confirmed the importance of
  - ownership of problems and willingness to change;

---

<sup>12</sup> *Changing Gear – Best value annual statement 2001*, Audit Commission, September 2001.

<sup>13</sup> *A picture of performance – Early lessons from comprehensive performance assessment*, Audit Commission, December 2002.



- a sustained focus on what matters;
- the capacity and systems to deliver performance and improvement; and
- integration of best value into day-to-day management

in serving sustained performance improvement. Authorities for whom a CPA has been completed will be familiar with where they stand in relation to these factors, and are now in a good position to address them. Authorities that have yet to go through a CPA can make progress by undertaking their own critical self-assessment.

23. Two other recent reports – the “*Byatt report*” and the Government’s Best Value Review – include important messages for the approach to best value. Each calls for innovative approaches to commissioning, procuring, and providing services which genuinely challenge existing ways of doing things and enable service users, staff, and management to feel engaged and involved throughout. The cross-cutting review of the Role of the Voluntary and Community Sector in Service Delivery,<sup>14</sup> echoed this amongst voluntary sector providers.
24. What these reports all have in common is the need to challenge existing practice, regardless of whether services are delivered in-house, externally, or in various forms of partnership. They reaffirm the Government’s commitment to diversity and plurality amongst service providers. They make clear that there should be a ‘level playing field’ for all potential service providers, and that the Government has no ideological preference for any one form of provision over another. They also emphasise the fact that good service delivery is dependent on a skilled and motivated workforce and all providers must have policies to secure this.
25. Providing good services to the majority of local people may not be enough to secure best value. The way in which services impact on all sections of the community needs to be addressed explicitly. Local authorities already have a duty under the Race Relations (Amendment) Act 2000 to promote race equality, and the Government is committed to introducing similar obligations in respect of gender and disabilities when Parliamentary time allows. The Audit Commission’s report on equality and diversity<sup>15</sup> highlights the relatively poor performance of authorities in respect of the key indicators, and concludes that these considerations need to be better integrated into all aspects of delivering, monitoring and inspecting services. The Government endorses this view.
26. It is also clear that more needs to be done to consider the impact of authorities’ actions on future generations. This is not just the prerogative of national government or national institutions. Local government has a key role to play. As community leaders, local authorities are expected to work for the long-term well being of their communities, recognising that actions taken locally may have wider impacts and contribute to damaging developments such as global warming. Sustainable development is

---

<sup>14</sup> *The Role of the Voluntary and Community Sectors in Service Delivery – A Cross-Cutting Review*, HM Treasury, September 2002.

<sup>15</sup> *Equality and Diversity*, Audit Commission, May 2002.

fundamental to best value, and should be reflected in authorities' programmes of reviews, the review process itself and improvement planning<sup>16</sup>.

27. The following sections contain statutory guidance on how best value should be applied in the light of recent developments and experience over the past few years. In particular, it deals with three key elements:
  - valuing the workforce;
  - reviewing performance; and
  - planning improved performance.

## SECTION 2 – VALUING THE WORKFORCE

28. Best value cannot be delivered without a well trained and motivated workforce. This is the responsibility of local government, both as employer and client, and applies irrespective of whether work is carried out in-house or externally. Staff must be consulted when reviewing functions (see paragraph 53). Where there is outsourcing, a more consistent and certain application of the Transfer of Undertakings (Protection of Employment) Regulations (TUPE) is central to the achievement of best value. Where there is a TUPE transfer, authorities need to provide bidders with accurate and timely information on all relevant matters. Bidders also need to be able to demonstrate that they understand and can manage their obligations under TUPE, with no detriment to the terms and conditions of transferred employees in connection with the transfer.
29. Full, effective and continuous communication is key to managing transfers well. Local authorities should consult their employees and recognised trade unions or staff representatives throughout, with full disclosure of information on all matters affecting the workforce. Contractors selected to provide services to local authorities and to take on local government staff should also have policies which ensure good communication and consultation with the workforce on key issues following a transfer. Annex C sets out in more detail the way in which workforce matters should be considered at each stage of the contracting process. Employees' pensions entitlements should also be secured in staff transfers.
30. The Government's Review of Best Value last year examined local authority contracting in England. It looked at concerns that some providers who had a poor approach to workforce matters were still winning work from local authorities and thereby jeopardising the quality of services. It also looked at concerns that on some occasions authorities were not taking proper account of workforce matters in their contracting. The Review reaffirmed the link between quality services under best value and good employment practices, and recommended ways to ensure that all contractors to local authorities have employment practices that will secure high quality delivery throughout

---

<sup>16</sup> The Government's strategy on sustainable development is set out in 'A better quality of life – a strategy for sustainable development for the UK' (May 1999); summarised in 'The Government's sustainable development strategy: What does it mean for local authorities?' (July 1999).

the life of a contract. In particular, it identified a need to ensure that the quality of a workforce transferred to a provider in an outsourcing exercise would be enhanced and not undermined during the period of the contract.

31. In its response to the Review, the Government announced a package of measures for local authorities in England that will meet the need under best value to protect and build on the quality of the workforce. Key measures address the position of transferred staff and new joiners taken on by providers to work alongside outsourced workforces. They include:
  - better protection of the terms and conditions for transferred staff. The Local Government Bill contains proposals to give statutory effect to the provisions in the Cabinet Office Statement of Practice on Staff Transfers and the Treasury annex on pensions.
  - fairness for new joiners taken on to work on service contracts beside transferred workforces. A Code of Practice is attached at Annex D which local authorities in England should include in service contracts.

## **TRANSFERRED STAFF**

32. The Cabinet Office Statement provides that contracting exercises (including retendering) should be conducted on the basis that TUPE should apply unless there are genuinely exceptional reasons for it not to do so, for example where the activity is essentially new or a one-off project, or where the features of the service are significantly different. The Statement recommends that at the earliest appropriate stage in the contracting exercise, the contracting authority should state that staff should transfer and this should normally have the effect of causing TUPE to apply. The Government expects all authorities to follow this policy, which also provides that in circumstances where TUPE may not strictly apply in legal terms, the principles of TUPE should be followed and the staff should be treated no less favourably than they would have been had the regulations applied. Whether TUPE applies is however a matter of law, to be decided on the facts of each case and legal advice should be sought to confirm the applicability of TUPE in individual cases.
33. Provisions in the Local Government Bill are expected to ensure that the principles set out in the Cabinet Office Statement (with the accompanying HM Treasury and Government Actuary's Department guidance) are given effect within local government. This will require protection of the pension rights of transferring staff. There are two ways of achieving this. Firstly, in the case of employees who are eligible for membership of the Local Government Pension Scheme (LGPS), there is the option for the new employer, if they wish, to seek 'admitted body' status within the LGPS so that transferred staff continue to have access to that pension scheme for their future service, to ensure continuity of pension accrual where the transferred staff leave the public service employment.
34. Secondly, where staff are not offered this option, they must be offered membership of an alternative scheme by the new employer which is actuarially certified as being 'broadly comparable' with the public service scheme (as defined in the Statement). Where the transfer to a broadly comparable scheme is offered, the relevant authority must be in a position to offer bulk transfer terms to the scheme provided by the new employer.

Individuals are not required to be party to such a transfer, which should be sufficient to provide service credit in the new employer's scheme on a day for day basis (or such equivalence determined by actuaries taking account of differences between schemes) for those who wish to transfer their accrued rights from the LGPS.

35. Negotiations to establish fair treatment in respect of pensions for transferring staff as part of business transfers should be based from the outset of the procurement process on a careful identification of the appropriate pension options, the full costs, liabilities and actual transferee data. Throughout this whole process, local authorities should ensure that staff are treated fairly, trades unions are informed and that the operation is open and transparent.

## **NEW JOINERS**

36. The Code of Practice should be applied where a council transfers its employees to a private or voluntary sector partner as part of a contract to provide any service to the authority. It will ensure that new joiners to the transferred-out workforce are offered terms and conditions which are, overall, no less favourable than those of the transferred staff. This 'no less favourable' formula does not apply to pensions, but under the Code new joiners must also be offered a reasonable pension provision, which may be either membership of the LGPS, membership of a good quality employer pension scheme or membership of a stakeholder pension scheme with an employer contribution.
37. The Code will ensure that the provision of quality services is not undermined by poor employment practices in respect to new joiners. It will prevent the damaging 'two-tier' situation where TUPE transferred staff on good conditions work beside newly recruited staff on much poorer terms and conditions. The Government is clear that partnerships with the private and voluntary sectors should be selected where these will drive up service performance standards, not in order to drive down staff terms and conditions. Best value is more likely to be achieved in circumstances where all parties are focused on service improvements.
38. The Code will not prevent local authorities or contractors from addressing productivity issues by working with their workforces in a positive manner to achieve continuous improvement in the services they deliver. Whilst the overall package must be no less favourable, this does not mean that its elements cannot be changed. Indeed, a contractor would be unlikely to provide best value if it did not consider the various elements that make up the terms and conditions and ensure that it provided a package best suited to delivering an improved service. It will therefore be important for local authorities to discuss with contractors, from an early point in the procurement process, how they intend to recruit and motivate staff under the Code in order to raise service standards.
39. The impact of this package of measures will be monitored by ODPM, to ensure that they are effective and that all local authorities and their contractors are applying them as intended.

## SECTION 3 – REVIEWING PERFORMANCE

40. The Government has considered carefully whether the current statutory provisions in Section 5 of the 1999 Act should be revoked or amended to allow greater flexibility in the way in which services or functions are reviewed. It has decided that no further changes are needed. Where authorities use the provisions in the 1999 Act sensibly and proportionately, best value reviews have a significant role to play in ensuring that services are improved in ways that are consistent with both local and national aspirations.
41. However to date, too much attention has been focused on ensuring compliance with the process of carrying out reviews at the expense of the outcomes and improvements that they are intended to achieve. As a result, the potential benefits have not always materialised. Authorities should balance the effort and resources put into a review against the potential gains arising from it. The scale and focus of reviews should reflect the importance of the service, the issues facing it, and the associated risks and opportunities for improvement.
42. The broad principles for conducting reviews remain those identified in Circular 10/99. Authorities should:
  - **challenge** why, how and by whom a service is being provided;
  - **compare** their performance with others across a range of relevant indicators, taking into account the views of both service users and potential suppliers;
  - **consult** with local stakeholders as to their experience of local services and their aspirations for the future;
  - use fair and open **competition** wherever necessary as a means of securing efficient and effective services.
43. A review carried out under these principles needs to address each of these elements in an imaginative way, and in no particular sequence. Each is essential to achieve a penetrating and comprehensive review. Reviews can be useful in confirming existing targets for service improvements, but more usually their value will be in setting more demanding targets. The guidance below gives advice on Review programmes, Scoping, and Challenge.

### REVIEW PROGRAMMES

44. The requirement for authorities to review all their functions over a five-year cycle was revoked in SI 2002/305. This change does not remove the legal requirement on local authorities to review their functions, as specified by Section 5 of the 1999 Act. Rather, it enables them to focus reviews on priority areas arising from their CPAs and other considerations.

45. Reviews should not be undertaken simply because authorities have previously given undertakings to assess a particular service in an earlier programme. Similarly, many straightforward improvements can be made without the need for a review. But reviews are likely to be important where:
- there is a need to improve performance on a shared or local priority; or
  - authorities are unclear whether a service is still needed or whether its contribution is as effective as it could be; or
  - there is a prima facie case for a new service or new configuration of an existing service; or
  - there is evidence that the costs of a service are significantly out of line with comparable services elsewhere; or
  - there is a clear opportunity to work with other authorities to deliver common services, through for example, new technology.
46. Authorities should in any case adopt a proportionate approach to their review programming: it should focus on the areas that present the most serious challenges and biggest opportunities for service improvement. Where authorities have completed a CPA, they will be expected to draw up a review programme which reflects their pattern of strengths and weaknesses, and include this in their next Performance Plan. In the case of authorities categorised as poor, weak or fair, they will need to develop a programme which satisfies the Audit Commission and other inspectorates that key areas of weakness are to be addressed in a timely manner, and in a way that fits well with the inspection timetable. Where a CPA has yet to be completed, authorities' review programmes should be sufficiently flexible to reflect, where appropriate, reviews that can be completed ahead of CPA or, where this is not possible, arrangements for developing their programmes in the light of their CPA.
47. SI 1999/3251 required all fire authorities in England and Wales, including those county councils in England responsible for fire services, to conduct reviews for particular functions according to a common timetable. Following the changes to the timetable that were announced in Fire Service Circular 4/2002, the date by which county fire authorities should have reviewed their training function has been postponed from 31 March 2003 to 31 March 2005.

## **SCOPING OF REVIEWS**

48. *Changing Gear* reported that over a third of inspections had queried whether the scope of reviews was sufficiently broad to deliver improvements that would be evident to service users. The advice on developing a review programme in paragraphs 44 to 46 above will help to address this.
49. The scope of a review should normally take account of a wide range of interests and should, for example, involve elected members, senior managers, other members of staff, actual and potential service users (including hard-to-reach groups), and the voluntary and community sectors. It should also take account of long-term as well as short-term impacts and recognise the opportunities afforded by new ways of commissioning and

procuring services electronically<sup>17</sup>. Authorities should also ensure that procurement know-how is brought to bear at an early stage.

## CHALLENGE

50. Of all the elements of a review, challenge offers the greatest scope for making real progress. *Changing Gear* observed that authorities were finding 'challenge' difficult, and a census by the University of Cardiff<sup>18</sup> confirmed this to be the case. Those authorities that have carried out reviews to best effect invariably used challenge imaginatively and with the intention of stretching performance rather than containing it.
51. Challenging why and how a service is provided may require a fundamental rethink about the needs it is intended to address, and the method employed to deliver it. This might include considering a wide range of possibilities such as helping needs to be met by the community itself, or introducing new services to meet previously unmet needs. If it is to be effective, it should typically involve:
  - elected, especially executive, members and senior managers throughout the review process;
  - staff, particularly front-line staff, who have knowledge of the current service;
  - service users, and when appropriate the wider community; and
  - 'third parties' who can bring an external perspective.
52. The role of elected members is vital. They can help to ensure that the scope of reviews reflects the strategic objectives and corporate priorities of the authority, and that the perspective of actual and potential users, including hard-to-reach groups, is fully reflected. They should also be involved in monitoring implementation of the measures that flow from completed reviews.
53. Staff engaged in delivering services are an important source of knowledge and expertise. Their commitment is essential to the successful implementation of the improvements agreed following reviews. In reviewing functions, authorities must consult recognised unions and employees' associations, and staff engaged in that function. The Government is giving statutory effect to this through an amendment to article 6 of Statutory Instrument 1999/3251. This will ensure that better decisions are made, and will increase understanding of the reasons for those decisions. The mechanisms for involving staff and trade unions should be set out clearly, including how the views of staff will be taken into account in decision-making processes.
54. A user and community focus to reviews is also vital. Users and others in the community can provide useful information on how well current services are working and how they may be improved. It is particularly important that authorities seek out the views of all

---

<sup>17</sup> *The National Strategy for local e-Government*, ODPM, published in November 2002, provides a framework for authorities to develop new and more effective ways to deliver customer-focused services, it is available at <http://www.localgov.gov.uk/>.

<sup>18</sup> *The Impact of Best Value in English Local Government: Summary of the results of the Census of local authorities in 2001*, Cardiff Business School, September 2002.

potential users, including those that have been traditionally under-represented, and other hard-to-reach groups.

55. The best authorities recognise the important role that third parties can play in helping to provide an external perspective to what can be a closed debate. The use of third parties alone will not guarantee effective challenge, which requires particular skills, attitudes and organisational approaches. But third parties, such as partners or alternative providers in the public, voluntary, community, social enterprise and private sectors, or service users (or potential service users), can bring an external dimension and expertise that may be lacking in the authority. They also have the potential to provide an effective independent scrutiny by questioning and challenging the authority's approach. The cross-cutting review of the voluntary and community sector's role in service delivery, for example, recommends that voluntary sector service providers are involved in the design and scrutiny of services, in order to harness their knowledge gained from delivering services, and this principle can be extended to others with a potential contribution to make. The use of peer challenge also provides opportunities for third party involvement in reviews. The Government also looks to authorities to provide more opportunities for staff from different authorities and other bodies to share experiences and offer alternative solutions.

## **COMPETITION AND PROCUREMENT**

56. Challenge without competition is possible but not always guaranteed to ensure that demanding new service standards are met efficiently and effectively. SI 1999/3251 requires authorities to assess the competitiveness of their performance in exercising their functions. Evidence suggests that a number of authorities have yet to make the most of fair and effective competition and competitive procurement<sup>19</sup>. While authorities have discretion over how individual services are provided, the highest standards of service provision are more likely to be achieved where there is genuine competition, choice for service users and a mixed economy rather than where any one supplier dominates the provision of services.
57. Good practice in this area is difficult to achieve. Some authorities believe that best value is achieved by routinely market-testing services without considering how services could and should be improved. Such market testing is unlikely to meet a best value test: it reduces effective challenge; potentially distorts the market for service provision; imposes costs on both authorities and other potential suppliers that are difficult to justify and importantly, fails to assure service users that they are receiving the quality of service that they might reasonably expect.
58. Authorities that rigorously challenge current service delivery arrangements include exacting comparisons with the best that other authorities and service providers can offer through the application of new technology, modern management and employment practices, and genuine innovation. When it is clear that improved services can be achieved by making changes to management and employment practices for example, it is important that authorities address these as quickly as possible, whether or not it is intending to retain the work in-house or seeking an external partner.

---

<sup>19</sup> *Competitive Procurement*, Audit Commission, March 2002.



59. Failure to do so can perpetuate a standard of service that is of poor quality and high cost, which is inconsistent with best value. Authorities should address these issues as part of their responsibilities under the legislation, in conjunction with staff and trades unions and with potential partners. The Code of Practice on workforce matters, described in Section 2, reinforces this. Experience suggests that partnerships work better where the decision to seek a partner has been considered carefully after quality and cost issues have been tackled internally.
60. The choice of provider is not just between in-house delivery and traditional outsourcing. There are many other options that should be considered, including partnerships with other public, private and voluntary sector bodies, at both a strategic and local level. ODPM's Strategic Partnering Taskforce is preparing a range of guidance on how to set up effective partnerships for delivering services<sup>20</sup>. There will also be opportunities for closer working between different tiers of government. At the local level, the Rural White Paper<sup>21</sup> proposed that authorities should set out their terms for partnership with town and parish councils on the delivery of local services, and enable such councils wishing to do so, to put forward proposals for improving service delivery. Local authorities should consider a practical range of options for service delivery and select the most appropriate, based on a robust and challenging process.
61. The "Byatt Report" recommended that authorities should have a clear policy which sets out how procurement is to be managed across the authority, and which ensures the effective involvement of staff in reviews and the procurement process. It also recommended that procurement expertise must be integral to the way in which local authorities pursue best value. Furthermore, local authorities should actively seek to improve competition and bring new suppliers into the market by providing information on future contracts and by commissioning and procuring more effectively.
62. The joint Government/LGA response fully endorsed these recommendations and authorities should re-consider their procurement practices to ensure they are getting the maximum value from them. Within the context of procurement, the Government's definition of best value is "the optimum combination of whole life costs and benefits to meet the customer's requirement". This approach enables sustainability and quality to be taken into account when service delivery options are being considered. For example, the consideration of whole life costs allows factors such as fuel efficiency and replacement cycles to be taken into account, as well as social (e.g. benefits to local people, good workforce management, community safety, diversity and fairness). Successful procurement strategies are likely to be based on whole life cost considerations that include subsequent revenue implications, and not simply the lowest initial tender price.
63. The Government acknowledges the importance of strengthening capacity to ensure that market intelligence and option appraisal skills are included in the review process, where necessary through external advisers. Procurement know-how has a critical role to play in best value reviews and should be brought to bear at an early stage. This does not imply that the results of every review will be the procurement of goods or services

---

<sup>20</sup> *Structures for Partnership – Technical Notes*, ODPM published September 2002 available at <http://www.local-regions.odpm.gov.uk/ssdpart/programme/publications/index.htm>.

<sup>21</sup> *Our Countryside: the future – A fair deal for rural England*, DETR, November 2000 [Cm 4909].

from a third party. Instead it recognises that the key stages of any best value review need to be informed by procurement best practice. Establishing good market intelligence is vital to help authorities identify and understand the capabilities of potential partners and suppliers: designing a robust business case or risk assessment are also essential to the effective evaluation of options.

64. The creation of the Local Government Procurement Forum brings together the key stakeholders in this area, helps to spread best practice and will increasingly co-ordinate the support available to local authorities on procurement issues<sup>22</sup>. These arrangements will help authorities to develop new procurement capacities, either alone or with others, to:

- analyse supply markets and identify what such markets can provide;
- select the best suppliers; and
- manage new forms of relationship designed to achieve whole life value for money, continuous improvement and the sharing of risks and rewards.

---

<sup>22</sup> Summary report for the Local Government Procurement Forum (14 November 2002) is now accessible on the ODPM website at <http://www.local-regions.odpm.gov.uk/bestvalue/proc/procforum/index.htm>.

## SECTION 4 – PLANNING IMPROVED PERFORMANCE

65. All effective organisations need to focus clearly on their priorities. They need to know their strengths and weaknesses, and take steps to improve any areas that are under-performing. Local authorities are no different. Effective improvement planning, whether in the context of CPA or not, requires that authorities report what they are doing to address their weaknesses, exploit new opportunities, and deliver better quality services.
66. Transparency is an important element of local accountability. It is also the primary purpose of Performance Plans under Section 6 of the 1999 Act. These plans will continue to play a key role in the CPA cycle. They will be the principal means by which authorities report their priorities for improvement and their achievements following the previous CPA. By enabling progress in delivering improvements to be tracked, Performance Plans will become a cornerstone for the way in which CPA scores are revisited, and provide an opportunity for authorities to share their experience.
67. The importance of the Performance Plan as a tool for reporting improvements across all local authority services was recognised in the review of local authority plan requirements.<sup>23</sup> The Performance Plan will remain as one of the few statutory plans that will continue to be required from all authorities. In the case of authorities categorised as ‘excellent’, the Plan will in due course be the sole annual plan that they must prepare and publish<sup>24</sup>.
68. The Government has reconsidered whether the information that is currently required of authorities in their Performance Plans is appropriate. It has concluded that the main focus should remain that of reporting the measures being taken to deliver improvement in outcomes for local people and recording progress in delivering these outcomes. It should address key priorities, including progress on agreed delivery targets, and summarise an authority’s improvement planning activities, including those undertaken following CPA. Whilst there is a need for some contextual data, this should directly support improvement and delivery planning information. Its principal audiences are likely to be the staff and elected members of the authority, groups and organisations with an interest in the activities of the authority, the regulatory bodies and central Government.
69. The Performance Plan is nevertheless a public document, and potentially an important means of communicating with local people directly. It should be made available on authorities’ websites and in local libraries and information centres.

---

<sup>23</sup> The outcome of the local authority plans review was announced in a statement by Nick Raynsford, Minister of State for Local Government and the Regions on 26 November 2002, available at <http://www.local-regions.odpm.gov.uk/freeflex/index.htm>.

<sup>24</sup> The Government is working towards a position where excellent authorities will only be required to produce a performance plan and community strategy. It is likely that 2003/04 will be a transitional year, during which all other planning requirements will be phased out.

## CONTENT OF PERFORMANCE PLANS

70. Annex E of this Circular contains the list of matters that authorities must include in their Performance Plans published by 30 June 2003, and in subsequent years<sup>25</sup>. In developing arrangements for devolving power and responsibility to authorities, there is a trade-off between providing freedoms and flexibilities (e.g. reduced numbers of plans submitted to Government, and reduced levels of inspection activity), and collecting essential information necessary to monitor progress on the shared priorities and Government PSA targets. As and when the number of plans required by Government is further reduced, it may be necessary to write to authorities to ask them to provide specific monitoring information on the delivery of shared priorities and PSA targets. This will only be requested where it is not available through other sources, and where it can be provided in time for inclusion in authorities' plans. The Government will consult the LGA ahead of any such decision.
71. The amendments that have previously been made to the timing and content of Performance Plans<sup>26</sup> are incorporated in the new provisions including:
- changing the deadline for the publication of the Performance Plan from 31 March to 30 June;
  - removing the requirement to summarise any assessment of the level, and way, in which an authority exercises its functions; and
  - removing the requirement to set out the five-year period of reviews.
72. Requirements to include information that can be obtained from other sources have now also been removed. For example, it is no longer necessary to include an efficiency summary or consultation statement in the Performance Plan. There are other sources of information on an authority's approach to consulting its community and other key stakeholders, and the Government will be issuing further advice on cost-effectiveness shortly in the context of best value performance indicators and local PSAs.
73. In reporting on their improvement planning arrangements, authorities that have town and parish councils in their locality should record the action taken to consider any proposals from such councils for partnership working on the delivery of local services. Authorities must also include in their Performance Plans a brief statement on contracts that involve transfers of staff. This should confirm that they are taking proper account of staff matters in their contracting.

## PERFORMANCE INDICATORS AND TARGETS

74. Best Value Performance Indicators (BVPs) reflect the importance that is attached to service delivery at the local level. Authorities should report their progress against BVPs and targets in their Performance Plans. They should set that information in context by reporting their out-turn performance against the targets they set themselves for each

---

<sup>25</sup> The Local Government (Best Value) Performance Plans and Reviews Amendment (England and Wales) Order 2003 revokes articles 3 and 4 of SI 1999/3251 on the content of performance plans.

<sup>26</sup> SI 2002/305 and accompanying guidance notes.

indicator at the start of the year, and explain any significant differences between targets and actual performance.

75. The new deadline of end June for the publication of Performance Plans should allow authorities to include out-turn data for the previous financial year rather than estimated data. This will make Performance Plans more robust statements of performance. The Government is also bringing forward in a phased way the deadline for approval of the financial accounts from 30 September to 30 June.<sup>27</sup> This will mean that the deadline for the approval of financial accounts will coincide with the deadline for the publication of Performance Plans. In the meantime, authorities should make every effort to include final unaudited BVPI out-turn data for the previous financial year in their Performance Plans.
76. The BVPI set for 2003/04 has been developed in the light of the national PSA for Local Government and the list of shared priorities. The BVPIs will continue to be kept under review as the plan rationalisation exercise is implemented and as decisions are taken on the way in which the CPA process is developed. The Government will nevertheless seek to keep the number and definition of indicators broadly stable to enable year-on-year improvement to be recorded and to limit the demands on authorities.

## **AUDIT AND INSPECTION OF THE PERFORMANCE PLAN**

77. The requirement in Section 7 of the Local Government Act 1999 for Performance Plans to be audited remains. The audit of the Performance Plan will now also feed into a wider qualitative assessment of an authority's approach to securing continuous improvement. This will draw on a wider range of evidence, including inspection reports and an analysis of performance as reflected in statutory indicators. This qualitative assessment will inform any future 'refreshment' of its CPA by the Audit Commission.
78. The deadline for the annual audit of Performance Plans has been changed from 30 June to 31 December. This brings the audit of the Plan broadly in line with the current CPA timetable for single tier authorities and county councils, enabling the two processes to be integrated locally.
79. The requirements in Section 9 of the 1999 Act for authorities to respond within 30 working days to recommendations contained in auditors' reports remains.

## **SUMMARY PERFORMANCE INFORMATION**

80. Local people need access to clear and relevant information about their authority's performance. Research suggests that a significant proportion of people do not feel informed about the standards of performance of their local authority, and would like to know more about their authority's performance. The CPA 'scorecard' developed by the Audit Commission has been designed to address this gap, and authorities will need to take a view on whether there are lessons to be learnt for the way in which they present summary information locally. In the Government's view, it is important that local people are informed ahead of local elections each year as to how their authority is performing

---

<sup>27</sup> The Accounts and Audit Regulations 2003.

in key service areas. Authorities should therefore continue to make a summary of their performance available to local people by 31 March each year.

81. Authorities have discretion over the contents of their summaries of performance, subject to the Code of Recommended Practice on Local Authority Publicity. Though such a summary might usefully reflect the priorities of the council following CPA.
82. Authorities have discretion over how such summaries of performance are presented and communicated. Summary performance information might be usefully added to council tax leaflets or included with council tax bill mailings, but this is not a requirement. Research suggests that people prefer receiving information in the form of newsletters or reports in local newspapers. Placing information on the internet alone emerged as the least popular option. This suggests that authorities should experiment with different methods of communicating key performance information and recognise that different groups will respond to different approaches.
83. The requirement for auditors to assess summaries as 'fair and accurate' reflections of Performance Plans no longer applies, although the provision of summary performance information may be taken into account in considering the quality of communication with local people as part of the CPA process.

## SECTION 5 – FURTHER INFORMATION

84. The Government recognises that no single approach to performance improvement under best value fits all circumstances. It is important that authorities should make the most of opportunities to share their experience and learn from others. They should also keep abreast of relevant research, particularly that undertaken on behalf of the Government, Audit Commission, IDeA and LGA. Annex F contains a list of websites where toolkits and other useful best value information can be accessed.

Richard Footitt

Head of Local Government Quality and Performance Division  
Office of the Deputy Prime Minister

## THE STATEMENT OF SHARED PRIORITIES AND THE NATIONAL PSA FOR LOCAL GOVERNMENT

### **The Statement of Shared Priorities**

Central and local government share a strong commitment to improving our local services through investment and reform. Local councils have a key contribution to make as a result of their local democratic accountability and their ability to integrate the work of different agencies and organisations at a local level.

By **working together** to improve delivery, we can ensure:

- we achieve faster progress towards ambitious targets;
- services reflect the different needs and aspirations of local communities and contribute to tackling deprivation; and
- the right technology and support are put in place to underpin successful delivery.

Across the board improvement is essential. We nevertheless need to focus our efforts on a number of key priorities:

- **raising standards across our schools** by helping all schools match the excellence of the best, sustaining improvement in primary schools, transforming secondary schools and ensuring that the school workforce has the capacity to support this;
- **improving the quality of life:**
  - **of children, young people and families at risk** by tackling child poverty, maximising the life chances of children in care or in need and strengthening protection for children at risk of abuse;
  - **of older people** by enabling them to live as independent lives as possible and avoid unnecessary periods in hospital;
- **promoting healthier communities and narrowing health inequalities** by targeting key local services – such as health, education, housing, crime and accident prevention – to match need; and the encouragement of healthy lifestyles;
- **creating safer and stronger communities** by working with the police and other local agencies to reduce crime and anti-social behaviour, strengthen community cohesion and tackle drug abuse;

- **transforming our local environment** by improving the quality, cleanliness and safety of our public space;
- **meeting local transport needs more effectively** by improving bus services and other forms of local transport and securing better access to jobs and services, particularly for those most in need; and
- **promoting the economic vitality of localities** by supporting business improvement, providing positive conditions for growth and employment, improving adult skills, helping the hardest-to-reach into work, and extending quality and choice in the housing market.

## **The National PSA for Local Government**

The Public Service Agreement for Local Government seeks to ensure that central Government, local councils and other organisations work together as effectively as possible to secure tangible improvements in the services that matter most to local communities.

The PSA draws together targets from the PSAs of government departments where councils and their partners have a contribution to make in delivering the outcomes. It reflects the existence for the first time of a joint statement of shared public service delivery priorities agreed between Government and the LGA. The agreement therefore has fewer targets and is more focused, reflecting a shared understanding of the things that matter most to local communities.

[Note: An asterisk (\*) indicates that the target is a neighbourhood renewal floor target].

## **Performance Targets**

1. Raise standards in English and maths so that:
  - by 2004 – 85% of 11 year olds achieve level 4 or above\* and 35% achieve level 5 or above with this level of performance sustained to 2006;\* and
  - by 2006 – the number of schools in which fewer than 65% of pupils achieve level 4 or above is significantly reduced\*.
2. Raise standards in English, maths, ICT and science in secondary education so that:
  - by 2004 75% of 14 year olds achieve level 5 or above in English, maths and ICT (70% in science) nationally, and by 2007 85% (80% in science);\*
  - by 2007, the number of schools where fewer than 60% of 14 year olds achieve level 5 or above is significantly reduced;\* and
  - by 2007, 90% of pupils reach level 4 in English and maths by age 12.
3. By 2004 reduce school truancies by 10% compared to 2002, sustain the new lower level, and improve overall attendance levels thereafter.



4. Raise standards in schools or colleges so that:
  - between 2002 and 2006 the proportion of those aged 16 who get qualifications equivalent to 5 GCSEs at grades A\* to C rises by 2 percentage points each year on average and in all schools at least 20% of pupils achieve this standard by 2004, rising to 25% by 2006\*; and
  - the proportion of 19 year olds who achieve this standard rises by 3 percentage points between 2002 and 2004, with a further increase of 3 percentage points by 2006.
5. Improve the quality of life and independence of older people so that they can live at home wherever possible, by increasing by March 2006 the number of those supported intensively to live at home to 30% of the total being supported by social services at home or in residential care.
6. Improve life chances for children, including by:
  - improving the level of education, training and employment outcomes for care leavers aged 19, so that levels for this group are at least 75% of those achieved by all young people in the same area, and at least 15% of children in care attain five good GCSEs by 2004. (The Government will review this target in the light of a Social Exclusion Unit study on improving the educational attainment of children in care);
  - narrowing the gap between the proportions of children in care and their peers who are cautioned or convicted; and
  - reducing the under-18 conception rate by 50% by 2010\*.
7. Increase the participation of problem drug users in drug treatment programmes by 55% by 2004 and by 100% by 2008, and increase year-on-year the proportion of users successfully sustaining or completing treatment programmes.
8. By 2010 reduce inequalities in health outcomes by 10% as measured by infant mortality and life expectancy at birth\*.
9. Secure improvements to the accessibility, punctuality and reliability of local public transport (bus and light rail), with an increase in use of more than 12% by 2010 compared with 2000 levels.
10. Improve delivery and value for money of local services by:
  - introducing comprehensive performance assessments and action plans, and securing a progressive improvement in authorities' scores;
  - overall annual improvements in cost effectiveness of 2% or more; and
  - assisting local government to achieve 100% capability in electronic delivery of priority services by 2005, in ways that customers will use.

11. All local planning authorities to complete local development frameworks by 2006 and to perform at or above best value targets for development control by 2006, with interim milestones to be agreed in the Service Delivery Agreement. The Department to deal with called in cases and recovered appeals in accordance with statutory targets.
12. By 2010, bring all social housing into decent condition with most of this improvement taking place in deprived areas, and increase the proportion of private housing in decent condition occupied by vulnerable groups\*.
13. Reduce crime and the fear of crime; improve performance overall, including by reducing the gap between the highest Crime and Disorder Reduction Partnership areas and the best comparable areas; and reduce:
  - vehicle crime by 30% from 1998–99 to 2004;
  - domestic burglary by 25% from 1998–99 to 2005;
  - robbery in the ten Street Crime Initiative areas by 14% from 1999-2000 to 2005; and maintain that level\*.
14. Over the three years to Spring 2006, increase the employment rates of disadvantaged areas and groups, taking account of the economic cycle – lone parents, ethnic minorities, people aged 50 and over, those with the lowest qualifications, and the 30 local authority districts with the poorest initial labour market position, and significantly reduce the difference between their employment rates and the overall rate\*.
15. In the three years to 2006, increase the employment rate of people with disabilities taking account of the economic cycle, and significantly reduce the difference between their employment rate and the overall rate. Work to improve the rights of disabled people and to remove barriers to their participation in society\*.

# PROTOCOL ON CENTRAL GOVERNMENT ENGAGEMENT IN POORLY PERFORMING LOCAL AUTHORITIES

## **Preamble**

1. This Protocol, revised on 19 February, 2003, derives from the Framework for Partnership signed in November 1997 by the Deputy Prime Minister on behalf of the Government and the Chairman of the Local Government Association (LGA) on behalf of local authorities. The Framework provides for the Government and the LGA to discuss policy for the use of intervention powers, including how best to facilitate a role for the LGA in supporting local authorities.
2. The Protocol gives expression to the shared aim of central and local government to raise standards in public service, to support and assist local authorities in improving services, to provide a clear framework for engagement and intervention by central Government, where council performance is unacceptable, and an orderly process for resumption of service by local authorities as necessary following intervention.

## **Purpose**

3. The Protocol sets out the general principles that will underpin the engagement of central Government with individual local authorities whose performance, including their capacity to improve, is categorised as poor or weak with little or no prospect for improvement. It also applies to other circumstances where Government takes the view that an authority's performance in a particular service area is sufficiently poor to justify Government engagement or intervention. The LGA may play an active role in assisting the Government in determining the nature and extent of any engagement or intervention.
4. The term 'engagement' is used to refer to non-statutory action taken with regard to an authority where there is a serious concern regarding a substantial failure that might lead to statutory action if satisfactory improvement is not achieved. The form of engagement will be determined by the nature of the problem but for example will usually, in the case of poor and weak authorities, involve the appointment of a lead official whose role will include assessing whether the council has – or is developing, possibly with external support – the capacity and commitment to deliver improvement. Since action in these circumstances is by agreement with the authority, there is a wide range of measures that might be taken in order to secure improvements.
5. The term 'intervention' is used to refer to action by the Secretary of State in exercise of his powers under section 15 of the Local Government Act 1999 and under other comparable legislation that applies to specific services or circumstances (see note on

intervention powers below). The form of each intervention will depend, as in the case of engagement (paragraph 4), on the nature of the problem and also on the scope of the statutory powers (paragraph 25).

6. The term 'Secretary of State' is used throughout to mean the appropriate Secretary of State.
7. Local authorities have a responsibility to deliver to local people services to clear standards. Authorities should set those standards – covering both cost and quality – for all the services for which they are responsible. But in those areas, such as education and social services, where the Government has key responsibilities and commitments, the Government itself may set such standards. The best value duty in Part 1 of the Local Government Act 1999 requires local authorities to make arrangements to secure continuous improvement in the economy, efficiency and effectiveness with which they deliver services and meet standards. Standards that should be met in specific services are set out in other comparable legislation.

### **Role of the LGA in helping authorities at risk of failure**

8. Where evidence and experience show that a local authority is at risk of failing in its duty in respect of a service or services, there are several ways of achieving improvements. Councillors, officials and contractors all have a responsibility for delivering quality services and addressing shortcomings and failings. The LGA and the Improvement and Development Agency (IDeA) are committed to work with local authorities to support improvement where problems exist. The LGA encourages its member authorities to give early warning of potential problems emerging from inspections, draft reports, complaints, reviews or other sources so that advice and support can be offered. Other authorities may offer support through networks, or the authority may be helped to identify and procure other external advice and assistance.

### **Principles governing engagement and intervention by the Secretary of State**

9. When a Comprehensive Performance Assessment (CPA) has been completed, it is intended to provide a rounded view of the performance of the authority and an early warning of weaknesses that need to be addressed. It facilitates the adoption of timely remedial action by the authority. The CPA will also become the primary indicator of the need for central Government engagement with the authority as a whole, especially to secure improvements across a range of different services where it is judged that there is very limited internal capacity to improve. Engagement and possibly intervention in respect of individual services can also be expected following, for example, a critical inspection report or poor performance information, and this will take account of an authority's corporate performance from an early stage. The provisions of this Protocol apply to both types of case.
10. The Secretary of State will exercise intervention powers under section 15 of the Local Government Act 1999 and other comparable legislation only when there is clear evidence that an authority is failing either to discharge its functions adequately or failing to meet its statutory obligations.
11. The Secretary of State will inform the authority of the reasons for intervention whenever using his powers under this legislation.

12. The form and extent of engagement and intervention will reflect the type and seriousness of failure and the need for effective improvement.
13. The authority will normally be given the opportunity to make the necessary improvements itself. In exceptional cases of serious corporate or service failure, when there is a serious risk of harm or financial loss, paragraph 26 of this Protocol will apply.
14. Authorities will provide accurate and timely responses to requests for information (as soon as possible, but normally within 10 working days), and co-operate with such action as the Secretary of State may direct in accordance with his powers and this protocol.
15. In cases where a function is exercised by the Secretary of State or a person acting on his behalf, both the Secretary of State and his nominee will be subject to the statutory duties that the authority would normally be subject to in respect of that function.

## **Process**

### **Identification of problems**

16. Non statutory engagement will only be embarked upon, and formal intervention powers will only be invoked, on the basis of clear evidence. Such evidence may emerge, for example, from:
  - CPAs including the corporate assessment;
  - audits of financial accounts;
  - audits of local performance plans;
  - audits of performance information;
  - inspection reports, including those arising from inspections directed under Section 10 of the Local Government Act 1999;
  - public interest reports;
  - reports of inquiries, Ombudsman investigations or judicial findings; or
  - concerns raised about serious danger or harm to the public.

### **Non statutory engagement in instances of corporate weakness**

17. The CPA outcomes will be the usual means of deciding whether central Government engagement to tackle corporate weakness is necessary.
18. Authorities would be expected to draw up a recovery plan promptly when asked to do so by the Secretary of State. They will be encouraged to seek help in the development of their plans, and funding may be made available for this purpose. Recovery plans will need to consider alternative ways by which services might be improved and delivered, following the review principles outlined in Best Value guidance.

19. Poor and weak authorities will have priority in accessing assistance for capacity building through national programmes. Support and guidance will be made available to assist local authorities to identify the most appropriate activity to address priorities identified in their recovery or improvement plans.
20. In addition to the support provided by the LGA, through the IDeA or by other means, the lead official (paragraph 4) will be able to identify other possible sources of support and guidance. The lead official will also advise whether partnership or improvement boards should form part of a wider support package. This will be the normal course of action where the CPA is the trigger.
21. However the need for engagement is identified, whether by CPA or other means, it will be necessary to determine as soon as possible whether action is needed:
  - to tackle weaknesses within the political or managerial leadership (the corporate core);
  - to address problems in single services alone; or
  - to address problems simultaneously in both the corporate core and specific services.

It will be for the relevant Secretary of State to determine ultimately the appropriate course of action and form of engagement with the local authority. In all cases, such action will be co-ordinated and proportionate in line with the principles in paragraphs 9 – 15, and with any Memorandum of Understanding to be agreed between Departments as to the way in which their actions will be decided and exercised.

### **Exercise of statutory intervention powers**

22. If the Secretary of State decides that the facts of the case mean that statutory intervention is likely to be necessary, he will formally notify the authority and the LGA immediately of his decision to direct the authority under the powers contained in Section 15 of the Local Government Act 1999, or in comparable legislation.
23. The authority will be given the opportunity to make representations about the direction proposed.

### **Nature of statutory intervention**

24. In the case of the Local Government Act 1999, the Secretary of State may take such action he judges necessary to secure compliance by the authority with the requirements of Part 1. This may require, for example, directing the local authority to act within a specified period to:
  - prepare or amend a recovery plan;
  - make sure a function is carried out so as to achieve specified objectives or priorities;
  - take consultancy advice;

- appoint interim management;
- enforce appropriate levels of delegation;
- secure the function from a specified provider or put the function out to tender;
- appoint a nominee to exercise certain specified functions of the authority;
- any other action that will secure the necessary improvements.

The Secretary of State may also direct a local inquiry to be held under Section 15(3) of the 1999 Act.

25. The Secretary of State may also take such action as is necessary to secure service improvements as granted to him under other legislation. Any such measures will need to be deployed consistent with this Protocol and any Memorandum of Understanding agreed between Departments.

### **Statutory intervention in cases of urgency**

26. Although the above arrangements for engagement and intervention will be the norm, there may be exceptional cases where the severity or persistence of failure, or the continuing risk of harm or financial loss, show that urgent intervention is necessary. If these circumstances prevail, and an authority could reasonably be expected to be aware of these problems and has failed to take adequate action to address them, then the Secretary of State retains the discretion to abbreviate the procedures outlined above as he sees necessary. When exercising his powers in this way, the Secretary of State will notify the authority and the LGA immediately of the intervention that is necessary and the reasons for intervention, and will provide a full explanation of his reasons for curtailing the procedures.

### **Monitoring, review and exit strategies**

27. The Government wishes to keep its involvement in the running of local government to a minimum. Where statutory powers have been used to remove powers from a local authority, the Secretary of State will aim to return control to it as soon as improvements are well established and the authority's political and managerial leadership has the capacity to sustain them. A small government team led by the lead official will normally undertake regular monitoring. The views of any partnership or improvement board will also be taken into account.
28. The test of success of recovery plans is the delivery of improvements against key performance outcomes. The audit and inspection process will be the principal means by which the Government will assess whether such outcomes have been achieved and whether these are sufficient to meet the criteria laid down in paragraph 29.
29. Where intervention is based on a direction that is not time-limited and leaves responsibility for the function with the local authority, the direction will normally be lifted when the Secretary of State is content that the objectives of the intervention have been met in terms of improved outcomes which can be sustained. He will seek to take

into account any audit or inspection report which has been completed for this purpose. Lifting the direction will not nullify any contracts that resulted from it.

### **Media relations and exchange of information**

30. Any announcements, publications or press releases issued in relation to any part of the procedures for intervention covered under this protocol will be subject to the agreement set out in the section titled 'Public Announcements and Exchange of Information' in the Schedule for Arrangements for the Conduct of Central-Local Relations under the Framework for Central Local Partnership.

### **Roles and Responsibilities in Respect of Local Authority Recovery**

#### **Lead Official**

#### **Roles and Responsibilities**

- To provide Ministers with an assessment of an authority's capacity and commitment to deliver improvement.
- To provide a single point of contact between local and central Government.
- To ensure that central Government activity in an authority is coherent and consistent.

#### **Key Activities**

- To advise Ministers when requested on all aspects of the authority's progress in drawing up and implementing its recovery plan.
- To establish monitoring arrangements.
- To establish co-ordination arrangements within central Government.
- To advise on financial support from ODPM funds established to assist poor and weak authorities.
- To liaise with the Audit Commission relationship manager for that authority on all aspects of audit and inspection.

#### **LGA**

#### **Roles and Responsibilities**

- To support local authorities through the improvement planning process.
- To oversee the management and allocation of capacity funding (jointly with ODPM).
- To monitor and review capacity building activity to ensure that it delivers improvement.



## **IDeA**

### **Roles and Responsibilities**

- To manage and co-ordinate the recovery and improvement planning support activities commissioned by the Council, where engaged by an authority.

### **Key Activities**

- To undertake activities, including brokering support from a range of sources including peers, associates, partner authorities and external consultancies, as required to facilitate recovery.
- To contribute to capturing, mobilising and disseminating knowledge and learning about improvement for the benefit of the sector as a whole, in conjunction with ODPM, the Audit Commission, the LGA and others as appropriate.

### **Audit Commission, appointed auditors and inspectors**

The Audit Commission and its appointed auditors will carry out their statutory responsibilities under the Audit Commission Act 1998 and the Local Government Act 1999. In carrying out their functions, the Commission and its appointed auditors will, so far as is consistent with those responsibilities, have regard to and seek to contribute to the key priorities for recovery of poorly performing authorities.

### **Roles and Responsibilities**

- To audit, inspect and assess the performance of authorities.
- To refer an authority to the Secretary of State if appropriate.
- In cases where the Government has appointed a lead official, the relationship manager will be expected to work closely with that lead official in ensuring that audit and inspection work complements the agreed recovery plan, in so far as it is consistent with statutory responsibilities.

### **Key Activities**

- To audit the Performance Plan.
- To agree a co-ordinated audit and inspection programme for each authority.
- The Commission, its appointed auditors, inspectors and other inspectorates may, so far as it is consistent with their statutory responsibilities, monitor and report on the outcomes following the implementation of any recovery plan.

## Intervention Powers

This note sets out the legislative powers that exist to enforce a local authority to take action to address poor performance.

The powers are:

- Local Government Act 1999, Part 1, Sections 15(5) and 15(6)
- Local Government Act 2000 – Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000
- Local Government Act 1972

In most cases, to ensure consistency across Whitehall, we would promote the Local Government Act 1999 as the mechanism to enforce improvement.

In addition to the powers set out in the various Local Government Acts, there are service specific powers for statutory intervention.

These powers are:

### HOUSING

- |                                 |  |
|---------------------------------|--|
| Right to Buy                    | – Sections 164, 167, and 170 of the Housing Act 1985   |
| ‘Supporting People’             | – Clause 64 of the Local Government Bill   |
| Large Scale Voluntary Transfers | – Schedule 3A to the Housing Act 1985 as inserted by section 6 and Schedule 1 to the Housing and Planning Act 1986 |
| Asylum seekers                  | – The Immigration and Asylum Act 1999  |

### ENVIRONMENTAL

- |                              |   |
|------------------------------|---|
| Statutory Nuisance           | – Section 79 of the Environmental Protection Act 1990<br>– Paragraph 4 of Schedule 3 to the 1990 Act            |
| Local air quality management | – Section 85 of the Environment Act 1995  |
| Industrial air pollution     | – Part 1 of the Environmental Protection Act 1990   |
| Waste management             | – Sections 49(3), 49 (4), and 57 of the Environmental Protection Act 1990<br>– Paragraphs 2 and 4 of Schedule 2 |

- |                      |  |
|----------------------|--|
| BUILDING REGULATIONS | – Section 116 of the Building Act 1984 |
|----------------------|--|

- |          |   |
|----------|---|
| PLANNING | – Sections 38, 44, 77 and 100 of the Town and Country Planning Act 1990 |
|----------|---|

- FIRE – Sections 2, 6, 12, 19, 21, 24, and 33 of the Fire Services Act 1947
- HOME OFFICE – Police  
– Sections 40, 37, S 38, 39, 40,41,43, 46-49, 53, 57) of the Police Act 1996
- DEPARTMENT for EDUCATION and SKILLS  
– Sections 495, 496, 497, 499 and 507 of the Education Act 1996  
– Sections 60, 61, 62, 63, 64 of the Education Act 2002  
– Section 8 of the School Standards and Framework Act
- DEPARTMENT of HEALTH – Section 7 of the Local Authority Social Services Act 1970  
– Section 54 of the Children Act 1989  
– Section 13 of the Health and Social Care Act 2001
- DEPARTMENT of CULTURE, MEDIA and SPORT  
– Sections 7 and 10 of the Public Libraries and Museums Act 1964
- DEPARTMENT for WORK and PENSIONS  
– Sections 139D to 139H and 140B of the Social Security Administration Act 1992

## HANDLING OF WORKFORCE MATTERS IN CONTRACTING

1. This Annex contains guidance to local authorities made under the provisions of Section 19(4) of the *Local Government Act 1999*. It covers:
  - background on Section 17 of the *Local Government Act 1988* and Section 19 of the *Local Government Act 1999*;
  - details of the Statutory Instrument, the *Local Government Best Value (Exclusion of Non-commercial Considerations) Order 2001* (SI 2001 No 909);
  - the context of best value and EC Procurement Directives, implemented in the UK by Public Procurement Regulations;
  - principles of good procurement practice; and
  - how workforce matters can be handled at the different stages of the contractual process.

### **Section 17 of the Local Government Act 1988**

2. Section 17 of the *Local Government Act 1988* prevents authorities from introducing political or other irrelevant considerations into the procurement process. It achieves this by defining certain matters as ‘non-commercial’ and prohibiting authorities from having regard to these matters in the contractual process. The relevant matters, as set out in Section 17(5) of the 1988 Act, include:
  - ‘the terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or other opportunities afforded to, their workforces’ (section 17(5)(a)); and
  - ‘the conduct of contractors or workers in industrial disputes between them’ (part of section 17(5)(d)).

### **Section 19 of the Local Government Act 1999**

3. Under Section 19 of the *Local Government Act 1999* the Secretary of State may by Order provide, in relation to local authorities, for a specified matter to cease to be ‘non-commercial’ for the purposes of Section 17 of the *Local Government Act 1988*. Section 19(4) of the *Local Government Act 1999* requires local authorities to have regard to guidance issued by the Secretary of State in exercising a function regulated by Section 17 of the 1988 Act, which is also the subject of an Order made under the 1999 Act.

This Annex constitutes guidance issued by the Secretary of State under Section 19(4) of the 1999 Act.

### **The Statutory Instrument**

4. The Order made under Section 19 of the *Local Government Act 1999* provides, in respect of local authorities, for the workforce matters described above to cease to be defined as ‘non-commercial’ matters for the purposes of Part II of the *Local Government Act 1988* to the extent that they are relevant to the achievement of best value, and also in circumstances where they are relevant for the purposes of a TUPE transfer. Workforce matters that are not directly relevant to the delivery of the service in question should not be taken into account (e.g. corporate training unrelated to the contract). The provisions of Section 17(5) of the 1988 Act that are not modified by the Order remain in force.

### **Guidance**

5. This guidance sets out how workforce issues should be taken into account in local government tendering, where such matters are relevant to the achievement of best value and also in circumstances where the requirements of the *Transfer of Undertakings (Protection of Employment) Regulations 1981 as amended* (TUPE) are to be applied.
6. The guidance is consistent with Procurement Regulations and with the achievement of best value. This guidance does not purport to be an authoritative guide to public procurement law, and local authorities will continue to need to interpret the relevant legislation and seek legal advice as necessary. It will always be for authorities to decide, in the light of their own legal advice, how to handle these matters in each individual contract.
7. ODPM’s views on the use of social clauses in local authority procurement is set out in a note at the end of this Annex.

### **Modern procurement and best value**

8. Under the *Local Government Act 1999* local authorities are required to make arrangements to secure continuous improvement in the way in which they carry out their functions, having regard to a combination of economy, efficiency and effectiveness. Best value recognises that good procurement practice is essential if local government is to obtain real improvements to service cost and quality.

### **Workforce issues in the context of best value procurement**

9. In taking account of the workforce issues that arise in procurement under best value, authorities will need to recognise:
  - the connection between service quality and handling of workforce issues. Good quality services depend on appropriately skilled and motivated workforces. Neglecting relevant workforce matters in order to drive down costs can have adverse effects on the desired quality and value for money of the service;

- the necessity of achieving the appropriate balance between considerations of cost and quality. This will depend on the nature of the service to be provided and the requirements of the service users. It is unlikely that either a purely cost-driven or an unjustifiably expensive service will represent best value;
  - that a transparent, open and fair procurement process is essential to attracting bids that provide the optimum combination of whole life cost and quality. All decisions should be based on objective criteria that are justifiable in terms of the performance of the service specified under the contract. Authorities should therefore have clear procurement strategies, procedures and written policies for evaluating tenders;
  - the emphasis on continuous improvement within best value and the implications for how strategic contracts in particular are structured;
  - the relevance of equal opportunities to the delivery of contracts;
  - the importance of handling TUPE well, so as to allay workforce reservations about transferring to new employers.
10. Procurement decisions by local authorities should take proper account of workforce issues. Staff and unions should be involved in the option appraisal stage, and where there is a decision to outsource, staff and unions should be involved in the selection process and in the subsequent detailed work around the transfer. Where TUPE applies, the current employer is obliged to make information available to workers' representatives and the new employer and to consult workers' representatives on matters relating to the transfer.

### **EU procurement rules**

11. This guidance covers all best value contracts, whether or not they are subject to the European Public Procurement legislation (e.g. below the relevant threshold or specifically excluded). It is consistent with EC Treaty based principles and EC Procurement Directives, as implemented in the UK by Public Procurement Regulations ("Procurement Regulations"). Contracting authorities will need to bear in mind that:
- if a best value contract is subject to the Procurement Regulations then the contracting authority must apply the relevant procedures;
  - if a best value contract is not subject to the Procurement Regulations then the contracting authority will still need to adhere to general obligations contained within the EC Treaty (e.g. not to discriminate on grounds of nationality and to treat all suppliers fairly) and to the relevant UK law. In particular contracting authorities should be mindful that Part II of the *Local Government Act 1988* as modified applies to all best value contracts.
12. Under the Procurement Regulations, workforce matters may come into consideration at the pre-qualification and tender evaluation stages of the contractual process. Under the Procurement Regulations the criteria for short-listing candidates are restricted to technical capacity, economic and financial standing and, for service contracts, ability. At the pre-qualification or selection stage, only workforce matters that affect the suitability of a candidate, as determined by those criteria, can be considered. Contract

award criteria can be selected on the basis of either 'most economically advantageous tender' or 'lowest price'. For most best value contracts awarding on the basis of 'lowest price' is unlikely to be satisfactory. The best value option will involve other factors such as whole life cost, quality and service delivery. Contract award criteria therefore, should not simply rely on price alone, unless the authority is satisfied that the specification for the work incorporates all these matters. In practice, these conditions are unlikely to be satisfied in all but the simplest contracts. Choosing the 'most economically advantageous' tender allows contracting authorities to consider more general matters, provided that these matters relate to the subject of the contract and provide a benefit to the contracting authority and do not result in discrimination between contractors. Workforce matters can be taken into account in so far as they relate to contract award criteria that concern the performance of the contract (e.g. whole life cost, solution, risk sharing, transition, delivery etc). The general award criteria to be used must also be clearly stated.

### **Principles of good procurement**

13. There is a range of advice and guidance on good procurement practice which local authorities can draw on. Sources include the Office of Government Commerce (OGC) – an independent office of HM Treasury on procurement, the Treasury Taskforce guidance on PFI projects and guidance produced by the Public Private Partnership Programme (the 4ps) and the Improvement and Development Agency (IDeA). The joint DETR/Local Government Association (LGA) taskforce which undertook to review commissioning and procurement practice, under the chairmanship of Sir Ian Byatt, reported in June 2001 and the joint Government/LGA response was published in July 2002. The Review of Best Value also reported in May 2002.
14. Some common principles of good procurement apply in all circumstances:
  - the procurement process should give the contracting authority sufficient information to form a view of potential service providers' competence but without placing an undue burden on them;
  - requirements and criteria should be consistently and fairly applied. The Government recognises that firms/organisations of different sizes (by number of employees) may satisfy purchasers' requirements in different ways. This is consistent with the aim of Ministers to encourage Small and Medium Enterprises (SME's) and in particular, small community businesses. The Government's aim is to take proper account of the circumstances of small businesses and also to help local authorities discern the best contractor to carry out the work. Quality small businesses stand to benefit as much as larger organisations;
  - potential service providers should understand clearly from the outset what categories of information and service standards may be expected. They should be provided with adequate, accurate and timely information at all the relevant stages of the procurement process;
  - all potential service providers, including those that are part of the authority, must be subject to the same requirements to ensure fair competition and be treated equally throughout the procurement process;

- care should be exercised to avoid taking too narrow a view of how the service might be delivered as this may limit the options and deter potential providers;
  - in order to be able to demonstrate that procurement has been undertaken in an open and transparent manner, authorities should ensure that bidders are fully aware of the basis for bid evaluation and that all stages of the procurement process can be audited satisfactorily with reference to a clear, written policy on evaluating tenders and awarding contracts, which is publicly available and made available to all bidders.
15. The Treasury Taskforce Private Finance, Policy Statement No 4, *Disclosure of Information and Consultation with Staff and other Interested Parties*, sets out for central Government departments a strategy for the disclosure of information and consultation at various stages in the procurement process. This does not explicitly cover local government, which is why the 4ps published on 21 July 2000 specific guidance for local government: *Disclosure of information and consultation with staff and other interested parties*. This is available at from the website at [www.4ps.co.uk](http://www.4ps.co.uk). The modifications made by the Order to Part II of the Local Government Act 1988 permit local authorities to follow the 4ps guidance to the extent that it is relevant to the performance of a particular contract.
  16. Another helpful model is the ‘continuous dialogue’ approach adopted by the NHS. NHS Trusts have to follow a Code of Practice designed to involve staff and their representatives in a process of continuous dialogue during the PFI procurement process. This recognises that the role of trade unions is important in informing an NHS Trust’s decision but the correct balance must be struck between an informed, constructive dialogue and observing the Procurement Regulations process.

## **The approach to workforce matters: contract procedures**

### *Introduction*

17. Workforce matters will come into consideration at the pre-qualification, service specification, invitation to tender and tender evaluation stages of the contractual process. Ideally the service specification will be largely finalised before the pre-qualification stage, although in practice an outline specification will often be sufficient. This part of the Guidance sets out in detail how workforce matters can be taken into account in each of these stages.

### *Pre-qualification*

18. For most contracts it is good practice to follow a pre-qualification process. The purpose of pre-qualification is to produce a shortlist of organisations that have the capability to perform the contract. Candidates who do not meet the minimum requirements can be rejected, and the contracting authority can then invite the best of those candidates, who do meet the minimum requirements, to tender.
19. At the pre-qualification stage the criteria for short-listing candidates are restricted to personal standing, economic and financial standing, technical capacity and for service contracts, ability. At this selection stage, only workforce matters that affect the suitability of a candidate as determined by those criteria should be considered.



20. For certain classes of contract, pre-qualification shortlisting could be simplified by using appropriately recognised databases such as Constructionline, although this does not preclude the need to advertise the contract and follow other Procurement Regulations where relevant. Such a database can be used to identify contractors who are fitted to carry out the work and to ensure that there is a sufficient core of likely or possible tenderers. For all contracts a database can also reduce the burden on clients and contractors of issuing and responding to requests for information in any advertisement, including OJEC, or a pre-qualification questionnaire. However, the presence of a contractor on a database does not automatically mean that it should be invited to tender, nor can the absence of a contractor from a database preclude a potential contractor from consideration.
21. Procurement Regulations set out the criteria and the nature of the evidence for assessing potential bidder's suitability and general competence, including their economic and financial standing, technical capacity and, for service contracts, ability to perform a service taking into account skills, effectiveness, efficiency, experience and reliability. The criteria should be set out in the OJEC notice, and in any other advertisement or the tender documents. Alternatively, potential providers can be invited to complete a questionnaire. *HM Treasury CUP Guidance no. 59A* provides a standard pre-qualification questionnaire which it is recommended that authorities should use as a basis for their own questionnaires. The questionnaire is available from the Office of Government Commerce website at [www.ogc.gov.uk](http://www.ogc.gov.uk).
22. In terms of information that will be relevant to the handling of workforce matters, authorities may wish to consider enquiring about the following matters:
  - experience and track record over the past three years (five years for works contracts) in providing similar services, and referees that can be called upon to vouch for performance (such references can be a particularly valuable source of information especially with well established contracts). Reference site visits can also be useful and provide reliable evidence of track records;
  - quality – details of accreditation, documentation and procedures, including health and safety management, environmental management, human resources procedures (staff management and employment practices), as relevant to the performance of the contract. This could include: background information on the organisation; average annual staffing for the previous three years; details of staff involved in the provision of the service in question; their qualifications and training; and the organisation's TUPE track record where relevant;
  - details of convictions for criminal offences or any acts of grave misconduct relating to the bidder's business or profession, including details of cases over the last three years where the bidder has been found by a Court or Tribunal to have breached the requirements of employment protection, including legislation on sex, race, disability, and health and safety matters. Details of any appropriate remedial actions taken should also be included.
23. This list is not intended to be exhaustive and there will be instances where it will be appropriate for contracting authorities to ask further detailed questions. The key test will always be relevance to the performance of the contract.

24. In some circumstances only the bidding entity and not the company as a whole should be evaluated with regard to workforce matters. The workforce of an associated or parent company will, in some circumstances be irrelevant and information relating to it therefore, should not be requested. However, it is acceptable to use evidence produced by the associated or parent company to meet a request for information.

*Service specification and conditions of contract*

25. The purpose of the service specification and contract conditions is to define the contracting authority's objectives for the service to be provided and to set out the terms of the relationship between the authority and the contractor. The authority's objectives should take account of any statutory or regulatory requirements as well as the authority's own objectives for the contract and the views of service users.
26. Writing the appropriate level of quality into the specification should attract bids which incorporate suitable staff management practices. The successful bidder would need to attract and retain a suitably skilled and motivated workforce in order to achieve satisfactory delivery of the contract. A poor specification that fails to address quality aspects is likely to lead to poor handling of staff management practices and poor delivery of the contract and hence to fail service users.
27. As far as possible, requirements should be specified in terms of output and performance, rather than how the contractor is to go about providing the service. This will provide scope for innovation in service delivery. Care must be taken not to infringe the procurement rules, for example by referring exclusively to national standards or schemes without including the term 'or equivalent', or by failing to refer to relevant EU standards or equivalents where available. Authorities should avoid deterring private or voluntary sector organisations, or smaller firms and new entrants to the market, by specifying requirements that may not be necessary and which these types of organisations may have difficulty in meeting.

*Invitation to tender*

28. The invitation to tender documents, sent to those organisations being invited to bid, would normally consist of the covering letter, instructions to tender, background information, terms and conditions of contract, specification and price schedule and, where relevant, the Code of Practice on Workforce Matters (attached at Annex D). The invitation letter, or an annex to it, should set out the information that tenderers should include in their tender. This information should as appropriate include, for example, a transition plan for taking on staff under TUPE, training and development plans, as well as how the tenderer would meet specific service and quality issues.
29. Where appropriate, there should be a joint commitment between contracting authority and contractor to service improvement during the life of the contract, including an agreed training and development plan. A view should be taken on whether the existing skills of the workforce are appropriate to the requirements of the contract and, if not, it should be made clear in the invitation to tender what additional skill levels may be required and ask how tenderers propose to make up any skills gap.

### *Tender evaluation*

30. The purpose of tender evaluation is to select the bid that meets the authority's requirements and delivers best value. It is essential that this is undertaken fairly and is seen to be so. The evaluation should be systematic, objective and well documented to provide a clear and logical audit trail. The approach taken on workforce issues at tender evaluation will depend on the service to be delivered and the proposed relationship between the contractor and the contracting authority. Consideration of workforce matters at evaluation stage should be as a means of clarifying the tenderer's response to clearly expressed requirements set out in the service specification including those in the Code of Practice, and should relate directly to the contractor's ability to deliver the service in question. Training policies and development of the workforce may be relevant to the delivery of the contract, for example, where it will be necessary for staff employed on the contract to keep abreast of any technical or other developments during its term.
31. Care should be taken that matters addressed at the pre-qualification stage are not revisited at the tender evaluation stage (unless a tenderer has a change of circumstances), where only matters relating to the deliverability of the contract should be considered.
32. Contracting authorities should ensure that all bidders, successful and unsuccessful, are debriefed as soon as possible after the contract has been awarded. Unsuccessful bidders should be told the outcome of the tender and why they were unsuccessful. Under the Procurement Regulations there is a mandatory timescale of 15 working days from a request to carry out a debrief. This will help to improve the market for future tendering exercises.

### *Contract management*

33. Successful contract management depends on the soundness of the agreement made between the contracting authority and the contractor, and the effectiveness of their relationship (which also recognises the perspective of service users). Contract management should be conducted in a positive and co-operative fashion, in a way that is time and cost effective for both contractor and contracting authority, which will in turn be supportive for staff. Heavy handed and over-detailed monitoring arrangements are likely to lead to distrustful relations and should be avoided. Supplier development, partnering and relationship management initiatives and other incentives can be important in building a mutually beneficial and fruitful partnership, where relevant, and proportionate, to the contract.
34. Monitoring of workforce-related issues should be concerned with those matters identified as relevant to the performance of the contract, as well as to statutory and regulatory requirements, and should fit into the normal reporting regime to avoid unnecessary burdens on contractors. Monitoring of the contractual requirements should be the same between in-house and external providers although in-house providers may have additional corporate requirements to meet.
35. A positive approach to contract management will not only have direct benefits for the service being provided: it will also give contractors the opportunity to develop or enhance their reputation as a good employer, providing good quality services. This will

raise the quality of the market and will in turn be valuable to the contracting authority in future tendering exercises.

#### *Health and safety*

36. Local authorities have a statutory duty under the *Health and Safety at Work etc Act 1974* with regard to the health and safety of their employees and others who may be affected by their undertaking. This duty cannot be delegated even where the work activity which forms part of the undertaking is contracted out. Authorities are required by legislation to take reasonable steps to satisfy themselves that contractors have the ability and resources for managing health and safety in relation to the work being carried out. In assessing such arrangements, authorities may request details of a contractor's health and safety management system in respect of the work concerned. Consideration of these issues at the pre-qualification stage, in so far as they relate to track record, quality management, criminal offences, is covered in paragraph 22. No additional, non-statutory requirements should be placed on external providers that are not placed on in-house providers supplying the same or a comparable service. After a contract has been awarded, authorities should have monitoring arrangements in place to ensure that any risks arising from the work contracted out are being managed properly. The level of monitoring necessary will depend on the hazards and risks associated with the work.

#### **Equal opportunities**

37. Under the Statutory Instrument local authorities may consider workforce matters where they relate to the achievement of best value and the delivery of the contract. Best value works within the existing legal framework and authorities have to observe the requirements of all other legislation on equality. It will therefore be for local authorities to decide in the light of their own legal advice how far to bring equal opportunities into the contracting process. This guidance suggests ways in which the treatment of equal opportunities may be relevant to each stage of the contracting process.

#### *Pre-qualification stage*

38. Local authorities may take account of the practices of potential service providers in respect of equal opportunities (e.g. race, gender, disability, religion, age, and sexual orientation) where it is relevant to the delivery of the service under the contract.
39. Contracting authorities should during the pre-qualification stage seek information as to the general competence, track record, details of criminal offences and acts of grave misconduct (as set out in the Procurement Regulations) including in relation to legislation on sex, race and disability. Contractors may be excluded from the tendering exercise if they have been convicted of a criminal offence or have committed an act of grave misconduct.
40. At pre-qualification this should provide sufficient information to make a proper assessment as to whether an individual contractor should be invited to tender. Local authorities should not make requirements of potential contractors that exceed what is permitted under the Procurement Regulations and they should be careful to strike a balance in their approach to seeking information. Neither will they wish to leave themselves vulnerable to the risk of poor performance during the life of the contract,

but equally they should avoid making requests for information that are disproportionate to those risks and not strictly relevant to the contract.

#### *Race legislation*

41. Section 71 of the *Race Relations Act 1976* places a duty on local authorities to ensure that their various functions are carried out with 'due regard to the need to eliminate unlawful racial discrimination and to promote equality of opportunity, and good relations, between persons of different racial groups'. Section 2 of the *Race Relations (Amendment) Act 2000* replaces Section 71 of the 1976 Act. It places a new general duty on specified public authorities to promote race equality and to avoid discrimination before it occurs. The general duty will be supported by specific duties which will help public authorities better fulfil their obligations under the general duty. The specific duties will be enforced by the Commission for Racial Equality. In recognition of the duty at Section 71 of the 1976 Act, Section 18 of the *Local Government Act 1988* already provides, in respect of race relations, for local authorities to be able to ask approved written questions and include terms in a draft contract if it is reasonably necessary to do so to secure compliance with the duty. Six approved questions were set out in *Department of the Environment Circular 8/88*<sup>28</sup>. Authorities will continue to be able to ask the six questions specified in Circular 8/88 although they are no longer restricted to these six questions as the sole means of taking account of racial equality. In addition, and where relevant to the contract, and for the purposes of achieving best value, the authority will be able to ask some further questions in relation to racial equality. Consideration of these issues at the pre-qualification stage, in so far as they relate to track record, quality management, criminal offences, is covered in paragraph 22.

#### *Invitation to tender and service specification*

42. Services that involve regular contact between providers and the users of the service, or the wider community, may frequently require of providers specific attributes with regard to fair treatment and equal opportunities. Authorities should address such considerations fully in their contract specifications in a way that does not prejudice fair competition or best value considerations. For example, where the service requires particular qualities in the staff, contracting authorities should address these matters in output terms as part of the specification (i.e. how the bidder would meet the needs of a particular community group), not in terms of the composition of the contractor's workforce which in itself is no guarantee of quality of service.
43. The authority may require a contractor's staff, when those staff are employed on the contract, to abide by any staffing policies, including those on equal opportunities, which are in operation where the work is being carried out.

#### *Tender evaluation*

44. Local authorities and private and voluntary organisations alike are subject to the requirements of equalities legislation (e.g. the Sex Discrimination Act 1975, the Race Relations (Amendment) Act 2000 and the Disability Discrimination Act 1995). They are also subject to the Human Rights Act 1998 if they are exercising a function of a

---

<sup>28</sup> *Local Government Act 1988 – Public Supply and Works Contracts: Non-Commercial Matters*, Joint Circular from the Department of the Environment and the Welsh Office 6 April 1988.

public nature. At the evaluation stage, authorities should assess how, on the basis of the bid, the tenderer will deliver the service and meet the needs of service users. The contracting authority must also satisfy itself that the bid will meet legal requirements placed on the authority, and those which are placed on the contractor in respect of equal opportunities and human rights legislation.

45. In view of their duties under the legislation on equality, local authorities should also consider how they can promote good practice in equal opportunities outside the contractual process. For example, authorities can work with commercial partners to promote equality in employment and raise awareness of how the application of equal opportunities to staff recruitment and management can bring commercial and other benefits.

### **ODPM's views on the use of social clauses [This is not statutory guidance]**

The Department's view on social clauses in procurement is as follows:

Individual local authorities may wish to use local labour clauses in contracts particularly in the interest of wider regeneration objectives. However, this needs to be done within the scope of the EC Treaty and the European Public Procurement legislation. The European Commission has recently provided clarification on the possibilities that Community law offers public purchasers who wish to take account of relevant social considerations in public procurement procedures. This clarification takes the form of an Interpretative Communication that explains how social concerns may be taken into account at each separate stage of the contract award procedure (copies of this document can be downloaded at [www.simap.eu.int/FR/pub/src/main2.htm](http://www.simap.eu.int/FR/pub/src/main2.htm)).

The Interpretative Communication goes some way to clarifying these complex issues, but difficulties may remain about the boundaries of what is admissible. There is limited case law in this area. A contracting authority must make its own judgement about the use of social clauses in procurement based on its own legal advice. Each case will be different and must be judged on its merits.

Where the EC procurement directives apply, award criteria must be relevant to the subject of the contract and provide a benefit to the contracting authority. Even where the directives do not apply, award criteria must be consistent with the fundamental principles of the EC Treaty, particularly non-discrimination.

The Interpretative Communication makes it clear that relevant social and employment issues can be included as contract conditions provided that they are non-discriminatory and included in the contract notice or contract documents. A statement from a tenderer that they are presently and will in the future, be unable to comply, could rule them out of the competition.

If the subject matter of the contract (the supply or service in question) requires specific know-how in the "social" field, specific experience or ability in this field may be relevant to the assessment of the technical capability of tenderers.

It remains the responsibility of individual local authorities to make their own judgement about the use of social considerations in procurement, consistent with domestic law, including the duty of best value, and the EC legal framework.

# CODE OF PRACTICE ON WORKFORCE MATTERS IN LOCAL AUTHORITY SERVICE CONTRACTS

### **Workforce matters under best value**

1. This document sets out an approach to workforce matters in local authority service contracts which involve a transfer of staff from the local authority to the service provider, or in which staff originally transferred out from the local authority as a result of an outsourcing are TUPE transferred to a new provider under a retender of a contract. This Code will form part of the service specification and conditions for all such contracts.
2. The Code recognises that there is no conflict between good employment practice, value for money and quality of service. On the contrary, quality and good value will not be provided by organisations who do not manage workforce issues well. The intention of the authority is therefore to select only those providers who offer staff a package of terms and conditions which will secure high quality service delivery throughout the life of the contract. These must be sufficient to recruit and motivate high quality staff to work on the contract and designed to prevent the emergence of a 'two-tier workforce', dividing transferees and new joiners working beside each other on the same contracts.
3. Service providers who intend to cut costs by driving down the terms and conditions for staff, whether for transferees or for new joiners taken on to work beside them, will not provide best value and will not be selected to provide services for the council. However, nothing in this Code should discourage local authorities or service providers from addressing productivity issues by working with their workforces in a positive manner to achieve continuous improvement in the services they deliver.

### **Treatment of transferees**

4. In its contracting-out of services, the local authority will apply the principles set out in the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector and the annex to it, A Fair Deal for Staff Pensions. The service provider will be required to demonstrate its support for these principles and its willingness to work with the local authority fully to implement them.
5. The intention of the Statement is that staff will transfer and that TUPE should apply, and that in circumstances where TUPE does not apply in strict legal terms, the principles of TUPE should be followed and the staff involved should be treated no less favourably than had the Regulations applied. The Government has now indicated an intention to legislate to make statutory within local government the provisions in the Cabinet Office Statement.

6. The annex to the Statement requires the terms of a business transfer specifically to protect the pensions of transferees. Staff must have ongoing access to the Local Government Pension Scheme or be offered an alternative good quality occupational pension scheme, as defined in the annex to the Cabinet Office Statement, under which they can continue to earn pension benefits through their future service. There must also be arrangements for handling the accrued benefits which staff have already earned.

### **Treatment of new joiners to an outsourced workforce**

7. Where the service provider recruits new staff to work on a local authority contract alongside staff transferred from the local authority, it will offer employment on fair and reasonable terms and conditions which are, overall, no less favourable than those of transferred employees. The service provider will also offer reasonable pension arrangements (as described at paragraph 10 below).
8. The principle underpinning the provisions of paragraph 7 is to consider employees' terms and conditions (other than pensions arrangements which are dealt with in paragraph 10) in the round – as a 'package'. This Code does not prevent service providers from offering new recruits a package of non-pension terms and conditions which differs from that of transferred staff, so long as the overall impact of the changes to this package meets the conditions in paragraph 7. The aim is to provide a flexible framework under which the provider can design a package best suited to the delivery of the service, but which will exclude changes which would undermine the integrated nature of the team or the quality of the workforce.
9. The service provider will consult representatives of a trade union where one is recognised, or other elected representatives of the employees where there is no recognised trade union, on the terms and conditions to be offered to such new recruits. [References to 'trade unions' throughout this code should be read to refer to other elected representatives of the employees where there is no recognised trade union.] The arrangements for consultation will involve a genuine dialogue. The precise nature of the arrangements for consultation is for agreement between the service provider and the recognised trade unions. The intention is that contractors and recognised trade unions should be able to agree on a particular package of terms and conditions, in keeping with the terms of this Code, to be offered to new joiners.

### **Pension arrangements for new joiners to an outsourced workforce**

10. The service provider will be required to offer new recruits taken on to work on the contract beside transferees one of the following pension provision arrangements:
  - membership of the local government pension scheme, where the employer has admitted body status within the scheme and makes the requisite contributions;
  - membership of a good quality employer pension scheme, either being a contracted out, final-salary based defined benefit scheme, or a defined contribution scheme. For defined contribution schemes the employer must match employee contributions up to 6%, although either could pay more if they wished;



- a stakeholder pension scheme, under which the employer will match employee contributions up to 6%, although either could pay more if they wished.

On a retender of a contract to which this Code applies the new service provider will be required to offer one of these pensions options to any staff who transfer to it and who had prior to the transfer a right under the Code to one of these pension options.

### **Monitoring arrangements**

11. Throughout the length of the contract, the service provider will provide the local authority with information as requested which is necessary to allow the local authority to monitor compliance with the conditions set out in this Code. This information will include the terms and conditions for transferred staff and the terms and conditions for employees recruited to work on the contract after the transfer.
12. Such requests for information will be restricted to that required for the purpose of monitoring compliance, will be designed to place the minimum burden on the service provider commensurate with this, and will respect commercial confidentiality. The service provider and the local authority will also support a central Government-sponsored review and monitoring programme on the impact of the Code, drawn up in consultation with representatives of local government, contractors, trade unions and the Audit Commission and will provide information as requested for this purpose. Such requests will follow the same principles of proportionality and confidentiality.

### **Enforcement**

13. The local authority will enforce the obligations on the service provider created under this Code. Employees and recognised trade unions should, in the first instance, seek to resolve any complaints they have about how the obligations under this Code are being met, directly with the service provider. Where it appears to the local authority that the service provider is not meeting its obligations, or where an employee of the service provider or a recognised trade union writes to the authority to say that it has been unable to resolve a complaint directly with the service provider, the local authority will first seek an explanation from the service provider. If the service provider's response satisfies the local authority that the Code is being followed, the local authority will inform any complainant of this. If the response does not satisfy the local authority, it will ask the service provider to take immediate action to remedy this. If, following such a request, the service provider still appears to the local authority not to be complying with the Code, the local authority will seek to enforce the terms of the contract, which will incorporate this Code. In addition, where a service provider has not complied with this Code, the local authority will not be bound to consider that provider for future work.
14. The contract shall include a provision for resolving disputes about the application of this Code in a fast, efficient and cost-effective way as an alternative to litigation, and which is designed to achieve a resolution to which all the parties are committed. The service provider, local authority and recognised trade unions or other staff representatives, shall all have access to this 'alternative dispute resolution' (ADR) process. The Government has asked local authorities, trade unions and contractors to come forward with an ADR mechanism which is consistent with this Code, for inclusion in contracts. In the event that within a specified timescale the parties are

unable to agree, the government will publish as an annex to this Code its proposed ADR mechanism.

15. Local authorities will be required to certify in their Performance Plans that individual contracts comply with best value requirements, including workforce requirements in this Code and the accompanying statutory guidance. The Audit Commission's appointed auditor will through the audit of the Performance Plan:
  - provide assurance that local authorities are meeting their statutory duty of certifying their compliance with the Code and that they have put in place adequate arrangements to ensure compliance;
  - receive information from third parties about any concerns with the authority's compliance;
  - consider the information received and decide how to deal with those concerns;
  - where the subject of any concern is of material significance (e.g. large contracts or where a major breach of this Code is alleged) the auditor will decide on a proportionate response to investigate the concerns.
16. If, as a result of investigations, the auditor has concerns about an authority's compliance with this Code, they may exercise their appropriate statutory powers, which include:
  - requiring the authority to respond publicly to a written recommendation;
  - recommending that the Secretary of State should give a direction under Section 15 of the Local Government Act 1999.

The Audit Commission will issue guidance to local authorities and auditors on how these matters will be dealt with.

### **Sub-contractors**

17. This Code sets out procedures for handling matters between the local authority and a primary service provider. Where the primary service provider transfers staff originally in the employ of the local authority to a sub-contractor in consequence of the terms of the primary service provider's obligations to the local authority, the primary service provider will be responsible for the observance of this Code by the sub-contractor.

### **Operation of this Code**

18. The Government will monitor the operation of this Code and consult with representatives of local government, trade unions, service providers and the Audit Commission to assist in this process.

## PERFORMANCE PLAN REQUIREMENTS

1. The following requirements are issued under Section 6 of the Local Government Act 1999. They should be read in conjunction with paragraphs 65 to 79 of this Circular.
2. All authorities must include the following items in their Performance Plan published by June 2003<sup>29</sup>, and in subsequent years:-
  - (a) A brief summary of the authority's strategic objectives and priorities for improvement. This should be drawn from the authority's overall vision, community strategy, its corporate planning processes, and the opportunities and weaknesses identified in CPA, where applicable.
  - (b) CPA scores, as presented in the Audit Commission's scorecard, where applicable.
  - (c) Progress in, and future plans for, delivering local and national priorities including:
    - progress over the past 3 years in implementing improvement measures, including those identified in best value reviews and audit and inspection recommendations;
    - outcomes from, or impact of, improvement measures implemented over the past 3 years;
    - plans for improvement over the current and subsequent 2 years, including best value review and inspection programmes for the current year and, if available, future years<sup>30</sup>. Those authorities that are categorised overall as poor and those that are categorised as weak with a score of 1 in corporate capacity and are engaged in recovery planning should reflect key elements of their recovery planning arrangements in their Performance Plan.
  - (d) Details of past, current and planned performance against local and national performance indicators, including:
    - actual performance over the past year on:
      - all BVPIs;

<sup>29</sup> References to the 'current year' relate to the financial year in which the performance plan is published.

<sup>30</sup> As at the time of publication.

- indicators used to measure progress against Local PSA targets where applicable; and
  - local indicators set by the authority to measure performance in priority areas;
  - details of the performance targets for the past year as set out in the last year’s Performance Plan for all BVPIs and other indicators referred to above;
  - targets for the current year and the subsequent 2 years, for all BVPIs, and local indicators set by the authority to measure performance in priority areas. These must have regard to nationally set standards and floor targets applying to the relevant year.
- (e) A brief summary of financial information<sup>31</sup>. This should record budgeted and actual (or estimated) income and expenditure for the past financial year, and provide a brief explanation of any significant variation. It should also include planned income and expenditure for the current year.
- (f) A brief statement on contracts. Authorities should state and certify that all individual contracts awarded during the past year which involve a transfer of staff comply, where applicable, with the requirements in the Code of Practice on Workforce Matters in Local Authority Service Contracts. (Annex D to this Circular.)

---

<sup>31</sup> CIPFA’s *Best Value Accounting – Code of Practice* provides authorities with accounting guidance that facilitates the comparability of local authority financial information. The Code helps authorities comply with the provisions of Sections 5 and 6 of the 1999 Act and the Orders made under these sections, and is recognised as proper practice for all authorities.

## FURTHER INFORMATION

Legislation and other statutory documents:

(available from the Office of the Deputy Prime Minister's website – see below)

- Local Government Act 1999: Part 1 Best Value.
- Statutory Instrument: 1999 No 3251 – Local Government, England & Wales : The Local Government (Best Value) Performance Plans and Reviews Order 1999.
- Statutory Instrument: 2001 No 909 The Local Government Best Value (Exclusion of Non-commercial Considerations) Order 2001.
- Statutory Instrument: 2002 No 305 Local Government, England & Wales : The Local Government (Best Value) Performance Plans and Reviews Amendment and Specified Dates Order 2002.
- Statutory Instrument: Local Government, England & Wales: The Local Government (Best Value) Performance Indicators and Performance Standards Order 2003.
- Statutory Instrument: Local Government, England & Wales: The Local Government (Best Value) Performance Plans and Reviews Amendment (England and Wales) Order 2003.
- Best Value Performance Indicators 2003/2004.

## Useful Website Addresses

Department / Organisation	Website address	Type of information available
Office of the Deputy Prime Minister	<a href="http://www.local-regions.odpm.gov.uk/bestvalue/bvindex.htm">http://www.local-regions.odpm.gov.uk/bestvalue/bvindex.htm</a>	<ul style="list-style-type: none"> <li>• Modern Local Government: In Touch with the People 1998 [CM 4014] (White Paper)</li> <li>• Strong Local Leadership-Quality Public Services [CM5327] 2001 (White Paper)</li> <li>• Best Value Performance Indicators</li> <li>• Research findings from long-term evaluations of the operation of best value</li> </ul>
	<a href="http://www.local-regions.odpm.gov.uk/ssdp/research/index.htm">http://www.local-regions.odpm.gov.uk/ssdp/research/index.htm</a>	<ul style="list-style-type: none"> <li>• Information on the work of the Strategic Partnering Taskforce and Supporting Strategic Service Delivery Partnerships in Local Government</li> </ul>
	<a href="http://www.housing.odpm.gov.uk/information/index11.htm">http://www.housing.odpm.gov.uk/information/index11.htm</a>	<ul style="list-style-type: none"> <li>• Best Value in Housing – links to information leaflets, the Best Value in Housing framework and research related to best value in Housing</li> </ul>
	<a href="http://www.planningofficers.org.uk/pos/index.htm">http://www.planningofficers.org.uk/pos/index.htm</a>	<ul style="list-style-type: none"> <li>• Planning Officers Society's Guide to Best Value and Planning</li> </ul>
Department for Education and Skills	<a href="http://www.dfes.gov.uk/vfm/bvalue.shtml">http://www.dfes.gov.uk/vfm/bvalue.shtml</a>	<ul style="list-style-type: none"> <li>• Best Value in Education</li> <li>• Best Value in Schools</li> </ul>
Department of Health	<a href="http://www.doh.gov.uk/scg/socialc.htm">http://www.doh.gov.uk/scg/socialc.htm</a>	<ul style="list-style-type: none"> <li>• Lessons from Social Care Reviews</li> <li>• Building Capacity and Partnership in Care: an agreement between the statutory and independent social care, health care and housing sectors</li> </ul>
	<a href="http://www.doh.gov.uk/healthinequalities/">http://www.doh.gov.uk/healthinequalities/</a>	<ul style="list-style-type: none"> <li>• Health inequalities</li> </ul>
Department for Environment, Food and Rural Affairs	<a href="http://www.defra.gov.uk/environment/waste/strategy/guidance/bestvalue/index.htm">http://www.defra.gov.uk/environment/waste/strategy/guidance/bestvalue/index.htm</a>	<ul style="list-style-type: none"> <li>• Best Value and Waste Management: Statutory Guidance for waste collection and waste disposal authorities</li> </ul>
	<a href="http://www.defra.gov.uk/">http://www.defra.gov.uk/</a>	<ul style="list-style-type: none"> <li>• Our Countryside: 'The Future' A fair deal for rural England 2000 [CM 4909] (White Paper)</li> </ul>
Department for Transport	<a href="http://www.dft.gov.uk/">http://www.dft.gov.uk/</a>	<ul style="list-style-type: none"> <li>• Information on Transport BVPI's</li> </ul>
Department for Work and Pensions	<a href="http://www.dwp.gov.uk/housingbenefit/">http://www.dwp.gov.uk/housingbenefit/</a>	<ul style="list-style-type: none"> <li>• Housing and council tax benefit performance standards and model publications</li> </ul>
Benefit Fraud Inspectorate	<a href="http://www.bfi.gov.uk/">http://www.bfi.gov.uk/</a>	<ul style="list-style-type: none"> <li>• Performance standards for housing and council tax benefit</li> <li>• Best Value and other BFI Inspection Reports, including scores from the Benefits assessment under CPA, and a summary of strengths and weaknesses</li> </ul>
Audit Commission	<a href="http://www.audit-commission.gov.uk/home/">http://www.audit-commission.gov.uk/home/</a>	<p>Various publications on Best Value and Improvement including:</p> <ul style="list-style-type: none"> <li>• Learning from Inspection Audit and Research series</li> <li>• Performance Indicators</li> <li>• Inspection Reports</li> </ul>
	<a href="http://www.bvpps.audit-commission.gov.uk/System/search/default.asp">http://www.bvpps.audit-commission.gov.uk/System/search/default.asp</a>	<ul style="list-style-type: none"> <li>• Best Value Performance Plan Library</li> </ul>

Continued

Department / Organisation	Website address	Type of information available
Improvement and Development Agency	<a href="http://www.idea.gov.uk/">http://www.idea.gov.uk/</a>	Various Best Value and Improvement publications and guidance including: <ul style="list-style-type: none"> <li>• Making Best Value Work</li> <li>• Making Performance Management Work</li> <li>• Best Value Essentials</li> <li>• Best Value Reviews</li> <li>• Joining up Best Value</li> <li>• Procurement</li> <li>• Toolkits and research – including ‘Connecting with Communities’ – IDeA toolkit on communications</li> <li>• IDeA Knowledge – interactive website</li> <li>• Improvement helpline</li> </ul>
Local Government Association	<a href="http://www.lga.gov.uk/home.asp">http://www.lga.gov.uk/home.asp</a>	<ul style="list-style-type: none"> <li>• Various publications on Best Value</li> </ul>
National Association of Local Councils	<a href="http://www.nalc.gov.uk/f_about.html">http://www.nalc.gov.uk/f_about.html</a>	<ul style="list-style-type: none"> <li>• Best Value guidance for member councils</li> </ul>
4Ps Public, Private, Partnership Programme	<a href="http://www.4ps.co.uk/">http://www.4ps.co.uk/</a>	<ul style="list-style-type: none"> <li>• Guidance on PFI and procurement, including comprehensive procurement packs for street lighting, leisure, housing and other service areas</li> <li>• Case studies on aspects of procurement and completed schemes</li> <li>• Guidance on disclosure of information and consultation with staff and other stakeholders</li> </ul>
Employers’ Organisation for Local Government	<a href="http://www.lg-employers.gov.uk/index.html">http://www.lg-employers.gov.uk/index.html</a>	<ul style="list-style-type: none"> <li>• Achieving Best Value through people: a toolkit</li> <li>• Research and surveys on Best Value</li> <li>• Guidance on pensions and procurement</li> <li>• Service delivery and quality surveys</li> <li>• Guidance on mainstreaming equalities into Best Value</li> <li>• Mainstreaming racial equality objectives into Best Value</li> </ul>

Published by TSO (The Stationery Office) and available from:

**Online**

[www.tso.co.uk/bookshop](http://www.tso.co.uk/bookshop)

**Mail, Telephone, Fax & E-mail**

TSO

PO Box 29, Norwich, NR3 1GN

Telephone orders/General enquiries: 0870 600 5522

Fax orders: 0870 600 5533

E-mail: [book.orders@tso.co.uk](mailto:book.orders@tso.co.uk)

Textphone 0870 240 3701

**TSO Shops**

123 Kingsway, London, WC2B 6PQ

020 7242 6393 Fax 020 7242 6394

68-69 Bull Street, Birmingham B4 6AD

0121 236 9696 Fax 0121 236 9699

9-21 Princess Street, Manchester M60 8AS

0161 834 7201 Fax 0161 833 0634

16 Arthur Street, Belfast BT1 4GD

028 9023 8451 Fax 028 9023 5401

18-19 High Street, Cardiff CF10 1PT

029 2039 5548 Fax 029 2038 4347

71 Lothian Road, Edinburgh EH3 9AZ

0870 606 5566 Fax 0870 606 5588

**TSO Accredited Agents**

(see Yellow Pages)

*and through good booksellers*

© Crown copyright 2003

*Copyright in the typographical arrangements rests with the Crown.*

*Published for the Office of the Deputy Prime Minister, under licence from the Controller of Her Majesty's Stationery Office.*

*Extracts of up to 10 per cent of this publication may be photocopied for non-commercial in-house use, subject to the source being acknowledged.*

*Application for reproduction should be made in writing to  
The Copyright Unit, Her Majesty's Stationery Office,  
St. Clement's House, 1-17 Colegate, Norwich NR3 1BQ.*

*Printed by The Stationery Office Ltd under the authority and superintendence of the Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.*

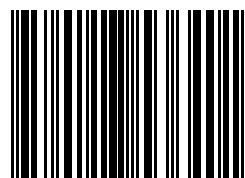
113980 C3 03/03

**£8.25**



[www.tso.co.uk](http://www.tso.co.uk)

ISBN 0-11-753640-7



9 780117 536401 >