



Best value: new draft statutory guidance
Consultation



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Introduction

1. The Government is acting in concrete ways to deliver on its commitment to localism, growth and the Big Society. We are freeing local authorities from targets, guidance and duties. This includes revoking guidance on the two tier code and the whole statutory guidance *Creating Strong, Safe and Prosperous Communities*. It also includes plans to repeal the two main remaining statutory duties covered in it (the Duty to Involve and the Duty to Prepare a Sustainable Community Strategy). We want to encourage authorities and civil society to collaborate more, including greater involvement for voluntary groups as well as small businesses in the running of public services.
2. In this context, we are introducing minimal, light touch Best Value statutory guidance setting out clear expectations when councils consider cutting funding to local voluntary and community organisations. This provides much clearer expectations for voluntary and community organisations in their relationship with authorities. It also aims to be more explicit about the scope for authorities to consider social value in their functions and allow them appropriate discretion in considering the circumstances of individual cases.
3. We would welcome comments from any organisations and individuals affected by the new guidance and any others with an interest. Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.
4. This document is available on the Department for Communities and Local Government website (www.communities.gov.uk) and we are drawing it to the attention of all principal councils and leading voluntary and community organisation representatives in England. The new guidance will apply to Best Value authorities in England only.
5. The consultation will last nine weeks, ending 14 June 2011. This is less than the standard (12 weeks) duration due to the need to balance swift action in light of near-term local budgetary decisions with sufficient time for all interested parties to respond.
6. A summary of the responses and the final guidance will be published at the same time. The Government expects to publish new Best Value guidance as early as possible before the summer.

Publication of responses – confidentiality and data protection

7. Information provided in response to this consultation, including personal information, may be published, or disclosed in accordance with the access to information regimes (primarily the *Freedom of Information Act 2000*, the *Data Protection Act 1988* and the *Environmental Information Regulations 2004*).
8. If you want any information to be treated as confidential you should be aware that under the Freedom of Information Act there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential.
9. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give any assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.
10. The Department will process your personal data in accordance with the Data Protection Act and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Queries or complaints

11. Any queries on the policy content of this consultation can be addressed to:
bestvalue@communities.gsi.gov.uk.

Any queries or complaints regarding the consultation process can be addressed to DCLG's Consultation Coordinator:
consultationcoordinator@communities.gsi.gov.uk.

Consultation questions

1. **Is the guidance clear, specific and proportionate?**
2. **Is there anything else that we should cover in order to provide more clarity to councils, contractors and the voluntary and community sector?**
3. **Are there any other issues you wish to raise?**

Responding to the consultation

12. Please provide your response using the online form at:
<http://www.communities.gov.uk/publications/localgovernment/bestvalueconsult>

Alternatively you can email your response to:
bestvalue@communities.gsi.gov.uk

or in writing to:

Priti Taneja
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3/H10 Eland House
Bressenden Place SW1E 5D

Your response must be received by **14 June 2011**.

Best Value Statutory Guidance (Draft)

1. Best value authorities¹ are under a general duty of best value to “make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.”² Under the duty of best value, therefore, authorities should consider overall value, including environmental and social value, when reviewing service provision.
2. To achieve the right balance – and before deciding how to fulfil their Best Value duty – authorities are required to consult a wide range of local persons, including local voluntary and community organisations and businesses.³ This should apply at all stages of the commissioning cycle, including when considering decommissioning services.
3. Authorities should be sensitive to the benefits and needs of voluntary and community sector organisations (honouring the commitments set out in local Compacts) and small businesses. Authorities should seek to avoid passing on disproportionate cuts and in particular:
 - An authority intending to reduce or end funding⁴ or other support to a voluntary and community organisation that will materially threaten the viability of the organisation or the service it provides should give at least three months' notice to both the organisation involved and the public/service users.
 - An authority should actively engage the organisation as early as possible on: the future of the service; any knock-on effect on assets used to provide this service; and the wider impact both on service users and the local community.
 - Authorities should make provision for the organisation or wider community to put forward options on how to reshape the service or project. Local authorities should assist this by making available all appropriate information, in line with the Transparency Code of Practice.⁵

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¹ A local authority; a National Parks authority; the Broads Authority; police and fires authorities, the London Fire and Emergency Planning Authority; a Waste Disposal Authority, Joint Waste Authority, an Integrated Transport Authority; Transport for London; the London Development Agency. See Section 1 of the *Local Government Act 1999*. Economic prosperity boards established under section 88 and Combined Authorities established under section 103 of the *Local Democracy, Economic Development and Construction Act 2009*.

² Section 3 of the *Local Government Act 1999* (as amended by s137 of the *Local Government & Public Involvement in Health Act 2007*).

³ Section 3(2) of the *Local Government Act 1999*.

⁴ Where “funding” means both grant funding and any fixed term contract, where, on the basis of past practice the organisation might have some basis for expecting the funding or contract to be continued.

⁵ Ministers are currently considering responses to the consultation on the Code, which closed on 14 March 2011.