



Department for
Communities and
Local Government

Revised Best Value Statutory Guidance

Summary of responses and the Government's response



© Crown copyright, 2015

Copyright in the typographical arrangement rests with the Crown.

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, <http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/> or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

This document/publication is also available on our website at www.gov.uk/dclg

If you have any enquiries regarding this document/publication, complete the form at <http://forms.communities.gov.uk/> or write to us at:

Department for Communities and Local Government
Fry Building
2 Marsham Street
London
SW1P 4DF
Telephone: 030 3444 0000

For all our latest news and updates follow us on Twitter: <https://twitter.com/CommunitiesUK>

March 2015

ISBN: 978-1-4098-4585-0

Contents

Scope	4
Overview	5
Responses	6
Government response	8

Revised Best Value Statutory Guidance

Summary of responses and the Government's response

Scope

1. The 2013 review of the Public Sector Equality Duty found too many public bodies adopting a formulaic, 'tick-box' approach to equality considerations regardless of the size or nature of the contracts they tender. It recommended a more proportionate approach to compliance with the Duty. In its response to the review, the Government made a commitment to stop the gold-plating of diversity and equality considerations in the public sector.
2. On 27 February 2015, the Secretary of State for Communities and Local Government issued a consultation document inviting views by 20 March on proposed changes to the Best Value Statutory Guidance.
3. The proposed revised guidance included an amendment to paragraph 2 to take into account the Social Value Act 2012 and two additional paragraphs of guidance on:
 - not imposing contractual requirements on private and voluntary sector contractors over and above the obligations of the Equality Act 2010; and
 - the need to ensure that councils do not give grants to organisations which promote extremism or division in society.
4. Specifically, the consultation document asked for views on:

Whether the updated and additional paragraphs in the draft revised guidance were:

- a. clear;**
- b. specific;**
- c. proportionate; and**
- d. if there was further detail that would help best value authorities know what processes would help them to decide whether organisations are extreme before making funding decisions?**

5. The responses have been read and categorised in relation to the issues and have been given full consideration as part of the decision to publish the revised guidance. We are grateful to everyone who took the time to respond.

Overview

6. The Secretary of State consulted over a three week period (27 February to 20 March 2015) on 'Revised Best Value Statutory Guidance'. The consultation document is available here:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/408077/Revised_Best_Value_Statutory_Guidance_Consultation_Paper_for_England_2.pdf
7. The consultation document was directed towards:
 - All English local authorities; and
 - The Local Government Association.It also welcomed comments from members of the public, businesses and the voluntary and community sector who were likely to be affected by the proposal; and views on whether the proposed changes would impact on those who may have protected characteristics under the Equality Act 2010.
8. The Government made significant attempts to ensure that those who could be affected by the proposals had sight of the discussion paper, including writing to each local authority, the Local Government Association, the Society of Local Council Clerks as well as various voluntary and community sector organisations.
9. The Secretary of State received 18 responses to the consultation. Of these:
 - 10 were from local authorities or local authority organisations (two county councils, three district councils, one London borough, one town council, the Local Government Association, the District Councils Network and the Association of Greater Manchester Authorities);
 - three were from individuals; and
 - five were from organisations related to or representing voluntary and community groups or social enterprises.

Responses

Amendment to paragraph 2 on social value considerations

10. There was no consensus regarding the proposed amendment to this paragraph with only 12 respondents expressing their views. Seven respondents supported the revision and continued inclusion of this paragraph whilst four respondents felt this paragraph was either unnecessary or confusing. One suggested some further rewording.

New paragraph on equality considerations

11. There were 16 responses to the proposed new paragraph. Of these, one was supportive of the inclusion of this paragraph and the remaining 15 expressed concerns either about the wording or the necessity of this paragraph. 11 respondents objected to some of the terminology used, finding either the term “gold-plating” unhelpful or requesting further guidance on what constitutes “gold-plating”. In addition six respondents stated that they had found little evidence to support the view that local authorities are imposing requirements over and above what is required by the Equality Act 2010.

New paragraph on not giving grants to organisations that promote extremism or division in society

12. There were six responses to the proposed new paragraph. Of these, three suggested that this paragraph is not necessary as this issue is already covered by existing legislation. Two respondents supported inclusion of this paragraph and one suggested some amended wording. A number of authorities also requested that we provide a definition of what is meant by “division in society” with one respondent expressing concern over its wider use and interpretation.

Detail that would help to decide whether organisations are extreme

13. Only one response was received regarding this question. The respondent was of the view that there needs to be clear guidance on the powers available to local authorities to investigate organisations and/or individuals, and guidance on how to decide and evidence where an organisation/individual is considered to be extreme.

Likely impact on those who may have protected characteristics under the Equality Act 2010

14. One respondent proposed that the Government provides guidance on what constitutes ‘gold-plating’ in order to ensure people with these protected characteristics are not disadvantaged in any way (providing practical examples of what it considers to be *‘imposing contractual requirements...over and above the obligations in that Act’*).

Other key points raised by respondents

15. A number of respondents expressed views about other parts of the guidance and suggested that further guidance on equality duties and social value be made available. One respondent also asked about how Best Value and Social Value are measured. Although these were outside the scope of this consultation they will feed into other areas of work.
16. Two respondents also expressed concern about the length of the consultation period.

Government response

Overall reaction

17. In general the Secretary of State was encouraged by the responses and is grateful for the views put forward.

Amendment to paragraph 2 on social value considerations

18. Some respondents argued the proposed approach was either unnecessary or sought to extend the requirements of the Public Services (Social Value) Act 2012. In view of these concerns, the Government has been persuaded to revise the text to include guidance of what local authorities should consider under the Duty of Best Value and also reference the statutory requirements of the Public Services (Social Value Act) 2012.

New paragraph on equality considerations

19. A number of respondents suggested alternative wording as they felt that the use of the term “gold-plating” was unhelpful and that it was not clear what was meant by this. In addition, some respondents felt that there was little evidence to support the notion that authorities were “gold-plating” the Equality Act 2010.
20. The Government believes there is a strong evidence base to justify the guidance on gold-plating, in light of the recommendations made in the [Review of the Public Sector Equality Duty: Report of the Independent Steering Group](#) and in Lord Young’s report [Growing Your Business](#).
- 21.
22. The Government is however persuaded to make a small amendment to the second sentence by replacing the word “minimise” with “remove”.

New paragraph on not giving grants to organisation that promote extremism or division in society and request for further detail.

23. A number of respondents were of the view that this paragraph was not necessary as the issues were already addressed by existing legislation such as the Equality Act 2010 or the Counter-Terrorism and Security Act 2015. The Prevent duty in the Counter-Terrorism and Security Act 2015 is specifically about preventing people being drawn into terrorism. Extremist groups can have no link whatsoever to terrorism – but we would still expect authorities not to issue grants to them.
24. Having considered the responses received, the Government is persuaded to revise this paragraph in order to address the concerns raised and provide greater clarity. Therefore, the reference to division in society has been removed and the paragraph has been expanded to include more detailed guidance with the definition of extremism being incorporated into the text.

Public Sector Equality Duty

25. The Government is of the view that there are no likely significant impacts of the proposals on those who may have protected characteristics under the Public Sector Equality Duty.

Time to respond to the consultation

26. Two respondents expressed concern that a consultation of this nature should be open for responses for only three weeks. However, the Secretary of State is of the view the consultation was run properly. He believes all those bodies that needed to see it, saw it, and had a reasonable length of time in which to respond.
27. The Government made significant attempts to ensure that those who could be affected by the proposals had sight of the consultation document, including issuing a press release and contacting local authorities and relevant networks. The Secretary of State received responses from all those who were targeted, namely: English local authorities, the Local Government Association, members of the public, businesses and the voluntary and community sector who are likely to be affected by the proposal. It also, in compliance with the requirements in section 149(1) of the Equality Act 2010 (the public sector equality duty), asked for views on whether there are any likely impacts on those who may have relevant protected characteristics.
28. The Secretary of State for Communities and Local Government, having given due consideration to the responses received to the consultation and for the reasons outlined above, is therefore publishing the Revised Best Value Statutory Guidance.