



Department for
Communities and
Local Government

Revised Best Value Statutory Guidance



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Ministerial foreword

I am delighted to be introducing the revised Best Value Statutory Guidance.

This guidance which sets out clear expectations for councils considering changing funding to local voluntary and community groups and small businesses has been updated and revised.

As before, I am not asking councils to do anything that I wouldn't ask of my Department or any other. That is why, reaffirming our commitments under the Compact, all central government departments are also signing up to the same fair standards set out in the guidance.

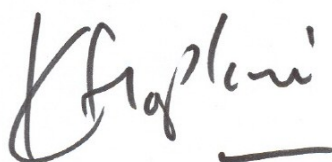
The Duty of Best Value continues to be important because it makes clear that councils should consider overall value – including social value – when considering service provision. So it plays to the long-term strengths of voluntary and community groups and small businesses.

The guidance includes a new requirement for councils not to commission services from, give grants to, or sell assets to individuals or organisations which are considered extremist according to the definition used by the Government's Extremism Task Force. Councils should seek assurance about those they provide funding or other assets to as part of their standard due diligence processes. The Government's Extremism Analysis Unit will produce separate guidance on conducting due diligence to check for extremism in due course. This guidance will include advice on the language and behaviour that may indicate extremism.

This guidance continues to demonstrate how this Government is acting in concrete ways to deliver on its commitment to localism and growth.

There are some councils who are actively working to protect these organisations and working with them to deliver cost-effective, innovative public services. The new guidance on the requirements of the Equality Act is intended to support such activity.

Local councils have been freed from excessive and prescriptive guidance and duties in return for a 'social responsibility' deal which asks that they continue to give support to local voluntary and community groups and small businesses.

A handwritten signature in black ink, appearing to read 'Kris Hopkins', with a horizontal line underneath.

Kris Hopkins MP

*Parliamentary Under Secretary of State for
Communities and Local Government*

Introduction

Scope of the guidance

1. This Government is acting to remove barriers to more open and efficient local public services by freeing local authorities from targets, prescription and duties. We want to encourage public agencies and civil society to collaborate more, including greater involvement for voluntary and community organisations¹ as well as small businesses in the running of public services.
2. To this end, we have already revoked guidance on workforce matters which formed part of the Best Value regime, namely the handling of workforce matters in contracting and the code of practice on workforce matters in local authority service contracts ('the two tier code'). We have also revoked the whole statutory guidance *Creating Strong, Safe and Prosperous Communities*, which included general Best Value guidance on commissioning. Furthermore, we have now repealed the two main remaining statutory duties covered in that guidance (the Duty to Involve and the Duty to Prepare a Sustainable Community Strategy).
3. In this context, this short statutory guidance on the Best Value Duty sets out some reasonable expectations of the way authorities should work with voluntary and community groups and small businesses when facing difficult funding decisions. It allows them the flexibility to exercise appropriate discretion in considering the circumstances of individual cases, without the Government trying to predict every possible variable. It gives a new clear prominence to requirements on dealing with the voluntary and community sector and small businesses, helps build the confidence of these organisations in holding public agencies to account and is explicit about the scope for Best Value authorities to consider social value in their functions, as required by the Public Services (Social Value) Act 2012. It does not replace Local Compacts between local authorities and the voluntary and community sector.
4. This guidance, taken together with measures such as Community Right to Challenge in the Localism Act, reduces the barriers that often prevent voluntary organisations competing for local authority contracts. These measures aim to promote local authority leadership in providing a level playing field for all, including local voluntary and community organisations.
5. The Government is committed to the principles in the renewed National Compact - the agreement which aims to ensure that government and civil society organisations work effectively to achieve common goals and outcomes for the benefit of communities and citizens in England. This guidance does not supersede any part of the Compact but sets out expectations of Best Value authorities making difficult funding decisions under the Best Value Duty. All central government departments and non Best Value agencies of departments are also signed up to the fair standards set out at paragraph 7 of the guidance.

¹ The reference in this document to voluntary and community sector also includes social enterprises.

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1. Best Value authorities² 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.”³
2. Under the Duty of Best Value, therefore, authorities should consider overall value, including economic, environmental and social value, when reviewing service provision. Authorities also have a statutory duty⁴ to consider social value⁵ for services above specified procurement thresholds⁶ at the pre-procurement stage. Authorities can however apply the concept of social value more widely than this and this Guidance recommends that authorities consider social value for other contracts (for example below the threshold or for good and works) where it is relevant to the subject matter of the contract and deemed to be beneficial to do so.
3. To achieve the right balance – and before deciding how to fulfil their Best Value Duty – authorities are under a Duty to Consult⁷ representatives of a wide range of local persons; this is not optional. Authorities must consult representatives of council tax payers, those who use or are likely to use services provided by the authority, and those appearing to the authority to have an interest in any area within which the authority carries out functions. Authorities should include local voluntary and community organisations and small businesses in such consultation. This should apply at all stages of the commissioning cycle, including when considering the decommissioning of services. In the interests of economy and efficiency, it is not necessary for authorities to undertake lifestyle or diversity questionnaires of suppliers or residents.
4. Authorities should avoid gold-plating the Equality Act 2010 and should not impose contractual requirements on private and voluntary sector contractors, over and above the obligations in that Act. Local authorities should seek to remove unnecessary paperwork and obstacles to contract compliance thereby making it easier for small and medium firms and the voluntary sector to apply and bid for contracts, and lowering costs to taxpayers.
5. Authorities should be responsive to the benefits and needs of voluntary and community sector organisations of all sizes (honouring the commitments set out in Local Compacts) and small businesses.

² local authority; a National Parks authority; the Broads Authority; the Common Council of the City of London in its capacity as a police authority, the London Fire and Emergency Planning Authority; a Waste Disposal Authority, Joint Waste Authority, an Integrated Transport Authority; Transport for London. 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.

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

⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/79273/Public_Services_Social_Value_Act_2012_PPN.pdf

⁵ seeking wider social, economic or environmental benefits.

⁶ £111,676 (central government) and £172,514 (other contracting authorities).

⁷ Section 3(2) of the Local Government Act 1999.

6. Authorities should not commission services from, give grants to or sell assets to an individual or organisation which actively or vocally opposes fundamental British values, including democracy, the rule of law, individual liberty, and mutual respect and tolerance of different faiths and beliefs; or which calls for the death of members of our armed forces. Authorities should ensure that effective processes are in place to provide assurance on this before entering into any agreement.
7. Authorities should seek to avoid passing on disproportionate reductions - by not passing on larger reductions to the voluntary and community sector and small businesses as a whole, than they take on themselves and in particular:
 - An authority intending to reduce or end funding (where 'funding' means both grant funding and any fixed term contract) or other support to a voluntary and community organisation or small business should give at least three months' notice of the actual reduction⁸ to both the organisation involved and the public/service users.
 - An authority should actively engage the organisation and service users as early as possible before making a decision on: the future of the service; any knock-on effect on assets used to provide this service; and the wider impact on the local community.
 - Authorities should make provision for the organisation, service users, and 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 Government's transparency agenda.

⁸ Where on the basis of past practice the organisation might have some basis for expecting the funding or contract to be continued.