

MEETING: CABINET MEMBER - PERFORMANCE AND GOVERNANCE
DATE: Wednesday 16 March 2011
TIME: 9.00 am
VENUE: Town Hall, Southport (video conferenced Town Hall, Bootle)

Councillor

DECISION MAKER: Brodie - Browne
SUBSTITUTE: Tattersall

SPOKESPERSONS: Friel Mclvor

SUBSTITUTES: Brennan Barber

COMMITTEE OFFICER: Ruth Appleby
Telephone: 0151 934 2181
Fax: 0151 934 2034
E-mail: ruth.appleby@sefton.gov.uk

The Cabinet is responsible for making what are known as Key Decisions, which will be notified on the Forward Plan. Items marked with an * on the agenda involve Key Decisions

A key decision, as defined in the Council's Constitution, is: -

- any Executive decision that is not in the Annual Revenue Budget and Capital Programme approved by the Council and which requires a gross budget expenditure, saving or virement of more than £100,000 or more than 2% of a Departmental budget, whichever is the greater
- any Executive decision where the outcome will have a significant impact on a significant number of people living or working in two or more Wards

If you have any special needs that may require arrangements to facilitate your attendance at this meeting, please contact the Committee Officer named above, who will endeavour to assist.

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A G E N D A

Items marked with an * involve key decisions

<u>Item No.</u>	<u>Subject/Author(s)</u>	<u>Wards Affected</u>	
1.	Apologies for Absence		
2.	Declarations of Interest Members and Officers are requested to give notice of any personal or prejudicial interest and the nature of that interest, relating to any item on the agenda in accordance with the relevant Code of Conduct.		
3.	Minutes Minutes of the meeting held on 16 February 2011		(Pages 5 - 12)
* 4.	Development of Area Partnerships Report of the Director of Neighbourhoods and Investment Programmes	All Wards;	(Pages 13 - 18)
5.	Consultation Proposals to Introduce a Community Right to Buy Report of the Acting Head of Corporate Legal Services	All Wards;	(Pages 19 - 24)
6.	Consultation Proposals to introduce a Community Right to Challenge Report of the Assistant Chief Executive	All Wards;	(Pages 25 - 70)
7.	Results of the Local Area Agreement 2007-2010 Performance Report of the Assistant Chief Executive	All Wards;	(Pages 71 - 80)
8.	Department for Communities and Local Government Consultation on Code of Recommended Practice for Local Authorities on Data Transparency Report of the Assistant Chief Executive	All Wards;	(Pages 81 - 102)
9.	Self Sector Regulation and Improvement	All Wards;	(Pages 103 - 144)

Report of the Assistant Chief Executive

10. **Government code of Recommended Practice on Local Authority Publicity**
Report of the Assistant Chief Executive

All Wards;

(Pages 145 -
188)

THE "CALL IN" PERIOD FOR THIS SET OF MINUTES ENDS AT 12 NOON ON TUESDAY 1 MARCH 2011.

CABINET MEMBER - PERFORMANCE AND GOVERNANCE

MEETING HELD AT THE TOWN HALL, SOUTHPORT ON WEDNESDAY 16 FEBRUARY 2011

PRESENT: Councillor Brodie-Browne

ALSO PRESENT: Councillors Friel and McIvor

33. APOLOGIES FOR ABSENCE

No apologies for absence were received.

34. DECLARATIONS OF INTEREST

No declarations of interest were received.

35. MINUTES

The Assistant Chief Executive indicated an error in Minute No. 29 (4) which had stated that the Assistant Chief Executive be requested to submit a report on the expected timescales for producing a fully operational, co-ordinated system for the recording, monitoring and reporting of the Council's Contacts, Complaints and Compliments. The Minute should have stated that the Interim Head of Corporate Finance and Information Services be requested to submit the report.

RESOLVED: That

- (1) the resolution for Minute No. 29 (4) be amended to state that "the Interim Head of Corporate Finance and Information Services be requested to submit a report on the expected timescales for producing a fully operational, co-ordinated system for the recording, monitoring and reporting of the Council's Contacts, Complaints and Compliments". (Not the Assistant Chief Executive); and
- (2) subject to the above amendment, the Minutes of the meeting held on 3 November 2010 be confirmed as a correct record.

36. THE GOVERNMENT'S SINGLE DATA LIST (NATIONAL INDICATORS REPLACEMENT)

Further to Minute No. 31 of 3 November 2010, the Cabinet Member considered the report of the Assistant Chief Executive on the publication of the Single Data List which gave early indications of the level of reporting that Councils would have to make to Central Government from April 2011.

Agenda Item 3

CABINET MEMBER - PERFORMANCE AND GOVERNANCE-
WEDNESDAY 16 FEBRUARY 2011

The report indicated that the Government had published departmental business plans (containing input and impact indicators), the Department for Communities and Local Government (DCLG) had published a first draft of the single data list (local authority data returns) and that both of these had been out for consultation with closing dates of 21 January 2011 and 4 February 2011 respectively. Following analysis of the consultation results the final list would be published late February / early March and was expected to go live in April 2011. The proposed single data list was attached at Annex 1 to the report and comprised 158 indicators.

The report concluded that whilst central government had proposed there would be a reduction in the burden placed on authorities, from early analysis it was evident that the list of returns that the Council currently made would remain. Also, whilst the national indicator set had been removed, it was too early yet to give a definitive view as to the level and extent of reporting requirements that would replace the national indicator set and indeed whether this would actually reduce the burden on authorities, particularly coupled with local authority transparency requirements in relation to procurement and the implications of the Localism Bill.

The Assistant Chief Executive presented the report and answered questions thereon. Arising from discussion the following points were made:

- whilst the data list contained 158 data sets, some of the returns masked more detailed information requirements, for example, the returns for Referrals, Assessments and Packages of Care (RAP) contained thousands of lines for return;
- the introduction of the Single Data List reinforced the need for a new corporate data policy for ensuring compliance and accuracy in respect of data return;
- plans were proposed to ensure continued responsibility for the returns of data sets under the budget, departmental and staffing changes, as a result of the Council's Transformation Programme.

RESOLVED: That

- (1) the report on the proposed single data list be noted;
- (2) the Assistant Chief Executive be requested to submit update reports on the single data list; and
- (3) representations be made to the Government with regard to the burden that the new single data list and the transparency agenda could place on local government.

37. UPDATE ON IMPLEMENTATION OF THE COALITION GOVERNMENT'S TRANSPARENCY REQUIREMENTS

Further to Minute No. 32 of 3 November 2010, the Cabinet Member considered the report of the Director of Corporate Services on the implementation of the Coalition Government's Transparency Arrangements.

The report indicated that on 28 January 2011 information had been published to the Council's website in relation to:

- payments made to suppliers whose payments exceeded £500; and
- senior officers' salary data

and that in order to ensure the accessibility of this information on the Council's website a link had been created on the website homepage under the heading 'Quick Links' and entitled 'Transparency'.

The Interim Head of Corporate Finance and Information Services presented the report and indicated that it was anticipated that there might be a considerable interest in the information provided which could result in a number of enquiries which could take the form of Freedom of Information requests; that the transparency page on the website facilitated queries in relation to the information provided via the use of the contact Us On-line Form; and that the impact of the enquiries in relation to published information would be closely monitored in order to assess resource implications.

Arising from discussion about the report the following matters were raised:

- there had surprisingly been no enquiries from the public about the published information;
- there had been one media enquiry on the apparent inappropriate spending by the Council; however, upon investigation this spending was found to have been carried out by two local companies which had been awarded business support grants by the Council, and related to genuine purchases that they had made in the operation of their businesses;
- regular reports on enquiries and responses arising from the publication of financial information should be submitted either to the Cabinet Member – Performance and Governance and/or to the Cabinet Member – Corporate Services, as deemed most appropriate, on a regular basis.

RESOLVED: That

- (1) the report on the Council's implementation of the Coalition Government's transparency requirements be noted; and
- (2) the Interim Head of Corporate Finance and Information Services be requested to submit reports on enquiries about published financial information either to the Cabinet Member – Performance

Agenda Item 3

CABINET MEMBER - PERFORMANCE AND GOVERNANCE-
WEDNESDAY 16 FEBRUARY 2011

and Governance and/or to the Cabinet Member – Corporate Services, as deemed most appropriate, on a regular basis.

38. TRANSFORMATION PROGRAMME: COMMUNICATION AND CONSULTATION STRATEGY

The Cabinet Member considered the report of the Head of Corporate Improvement on the public facing Strategy and Action Plan for Communication and Consultation in relation to the Council's Transformation Plan.

The report indicated that where decisions about changes to services were being made quickly there was a need to have a clear distinction of when information should be provided to the public and when there was an option for the public to offer feedback that could be taken into consideration when making decisions. This would ensure that communication and consultation with the public was appropriate and avoided unnecessary use of resources.

The report indicated that the respective Cabinet and Council meetings held on 27 January 2011, had approved the principles on which this approach was proposed, as part of the guidance on decommissioning services.

Appendices 1 and 2 to the report detailed the respective Strategy and Action Plan for ensuring that the communication that did take place was appropriate.

The report indicated that as consultation and engagement on service reduction and cessation commenced, links would be provided from the Sefton website to the Council's on-line E-consultation tool; and a range of other ways for consulting the community would be used, particularly around stakeholder engagement. The Communication and Consultation Strategy would also be published on the website to show that the Council was open about the approach it was taking.

The Public Engagement and Consultation Manager presented the report and indicated that the Council was currently exploring the use of an on-line tool called 'YouChoose' - a budget simulator provided free of charge by the Local Government Association. The tool could be used to communicate with the public about choices that could be made in meeting budget reductions and enable the public to provide feedback in relation to decisions about reducing or re-designing a service. Members welcomed the use of YouChoose, but queried the branding of the tool which could be potentially misleading to the public.

RESOLVED:

That the Transformation Programme's Communication and Consultation Strategy be noted and exploration of the use of the budget simulation tool, YouChoose, be endorsed.

39. NEW MEDIA AND SOCIAL NETWORKING UPDATE

The Cabinet Member considered the report of the Assistant Chief Executive on the New Media and Social Networking Update exploring the potential for the Council to develop a corporate approach to the use of recognised social media as a tool to provide information, communicate with residents and partners and engage with service users.

The report indicated that with the reduction in government grants, the current Transformation and prioritisation of Sefton Council services and the Government's 'Transparency' Agenda, the expectations on Local Authorities to engage, be accountable for and work openly, were greater than ever. As such, the Corporate Communications Team was currently looking at effective and cost efficient ways of improving its new-media offer for residents and to help meet the significant changes in the way the authority delivered its services.

The report indicated that Social Media was becoming a foundation of communication in modern society and the Smarter Government and Digital Britain White Papers outlined the Government's ambition to create digitally enabled public services used by a 'digitally enhanced' population; that Social networking was a relatively cost-effective way for engaging with services users and that in the UK 21.8 million people used social networks.

The Head of Communications presented the report, indicating that social media provided an excellent opportunity to address the Transformation agenda in an innovative way. He stated that many Local Authorities were now exploring social networking to a varying extent with most concentrating their activity around well-known sites such as Facebook and Twitter, which had a recognised legitimacy with the public and other large public organisations, such as the Police and Central Government. He continued that social media could be used for engaging with the public, providing media information/public messages, reporting problems, building communities and enhancing democracy and campaigning.

Arising from discussion, some of the challenges of using social media were raised, including:

- pressure on staff resources in maintaining the sites and responding to questions.
- a protocol would need to be considered around who would be responsible for updating social networking sites
- reputation management and the difficulties ensuring that all postings were appropriate

Agenda Item 3

CABINET MEMBER - PERFORMANCE AND GOVERNANCE-
WEDNESDAY 16 FEBRUARY 2011

It was also suggested that the use of social networking could incorporate the use of emails, with members of the public being able to sign up for email alerts from the Council.

The report concluded by indicating the actions to be taken in order to move forward with the implementation of social networking. These included examining how a response system could be integrated into existing customer service arrangements to manage the issues and complaints; produce a draft protocol for social media activity to be managed centrally; liaising with other Council departments to see how they used social media sites to promote their services for incorporating into a Corporate Protocol; setting up Facebook and Twitter networking sites as a pilot to be linked to the Sefton website; and exploring the use of You Tube for targeted video content which could link through to the Council website.

RESOLVED: That

- (1) the approach to the use of recognised social media outlined in the report be approved;
- (2) the Head of Communications be requested to incorporate the use of emails as a means of engaging with the public, with the public being able to sign up for email alerts from the Council; and
- (3) the intention of the Assistant Chief Executive to submit further update reports as the work progressed be noted.

40. ANNUAL REPORT OF THE PUBLIC ENGAGEMENT AND CONSULTATION TEAM AND STANDARDS PANEL

The Cabinet Member considered the annual report of the Head of Corporate Improvement on the activities of the Public Engagement and Consultation Team and Standards Panel between January 2010 and December 2010.

The report indicated that the Council and its partners had adopted the principles and standards outlined in the Public Engagement and Consultation Framework to ensure that the public engagement that took place in the Borough was coordinated and of a high quality. A key element of this coordinated approach had been the establishment of a Public Engagement and Consultation Panel (the Panel).

The report indicated that the Panel had been operating to Terms of Reference that outlined its main purpose as being

‘To act as an independent quality assurance panel to improve the quality, efficiency and effectiveness of engagement and consultation throughout the Borough’.

The report outlined the following activity and work undertaken between January and December 2010:

- Proposals appraised by the Panel (Table 1)
- Feedback and Evaluation Reports (Table 2)
- Attendance at the North West Together We Can (NWTWC) Learning Exchange Seminars held in March and November 2010 (Public Engagement and Consultation Network Meeting) – where consideration was given to the imminent budget cuts and how this might impact on engagement and consultation activity
- Training and development
- eConsult System (Consultation Finder) for the management and administration of consultation on behalf of Sefton Council, Sefton CVS and NHS Sefton.

The Public Engagement and Consultation Manager presented the report and answered questions thereon.

RESOLVED:

That the Annual Report of the Public Engagement and Consultation Team and Standards Panel be noted.

41. AREA INFORMATION

The Customer Services Client Manager (CSCM) gave a presentation on the development of Customer Profiling for improving the services which the Council provided to its communities.

She explained that Customer Profiling could be extremely beneficial to the Council in ensuring that customer insight was the driver for service design; challenging delivery models to reduce duplication and non-value-adding customer contact; integrating web performance, contact centre and face to face services to empower customers with an authentic choice and move to a more evidence based policy approach; and combining local knowledge with strategic planning and control.

The presentation illustrated how the Council could:

- represent demographic information on maps;
- represent service information on maps, including customer complaints; and
- identify the location of Sefton Council premises on maps

The CSCM indicated that she had looked at the customer profiling websites of other local authorities, namely Cornwall, Newcastle City Council and Barnet.

Agenda Item 3

CABINET MEMBER - PERFORMANCE AND GOVERNANCE-
WEDNESDAY 16 FEBRUARY 2011

The following questions would need to be considered in order to move forward with customer profiling/maps:

- Who were we doing this for?
- Did we know what we wanted to see?
- What would we do with what we saw?
- What would we do with what we saw?
- How would we evaluate its usefulness?
- What was this data?
- How were we going to display it?
- How did it become information?
- When did it become information?
- Who 'owned' it, kept it up-to-date, made decisions about it?

The Cabinet Member indicated that these questions would be considered in the 'Business Intelligence' workshop immediately following the meeting.

The CSCM concluded by summarising the benefits of customer profiling, which could be used to:

- report, publish and share key decisions
- focus service delivery
- make efficiencies
- establish and improve area resilience.

Arising from discussion, the following points were made:

- any use of profiling data would require development time, and would require resources to keep data up to date and relevant.
- the need to define the term 'complaint'
- the usefulness of recording information/data on a ward by ward basis
- the Council should record compliments as well as complaints for informing service delivery
- the top ten hierarchy of questions/complaints could be highlighted (i.e. dog fouling, waste collection, street lighting, etc).

RESOLVED: That

- (1) the Customer Services Client Manager be thanked for her interesting and informative presentation; and
- (2) further consideration be given to customer profiling and mapping during the Business Intelligence workshop at the rise of this meeting.

Agenda Item 4

REPORT TO: Cabinet Member – Performance and Governance
Cabinet Member – Communities

DATE: 16 March 2011
23 March 2011

SUBJECT: Development of Area Partnerships

WARDS AFFECTED: All

REPORT OF: Alan Lunt, Director Neighbourhoods and Investment Programmes

CONTACT OFFICER: Steph Prewett, Assistant Director Neighbourhoods and Investment Programmes Ext 3485

**EXEMPT/
CONFIDENTIAL:** No

PURPOSE/SUMMARY:

To inform Cabinet Member-Performance and Governance and Cabinet Member - Communities of progress to date in the development of Area Partnerships

To ask for views from Cabinet Member- Performance and Governance and Cabinet Member- Communities on the proposals set out in Annex I for a forward work plan to enable the progression of Area Partnerships across Sefton. These views to inform a report to Cabinet on 14 April 2011 requesting formal agreement to the work plan.

REASON WHY DECISION REQUIRED:

To allow progress to be made in further developing Area Partnerships and making them relevant to their geography

RECOMMENDATION(S):

It is recommended that the Cabinet Member- Performance and Governance and Cabinet Member- Communities:

- i) Note the outcomes of Member consultation
- ii) Note the achievements to date
- iii) Put forward views on the proposed timeline for development to inform recommendations to Cabinet to enable further work to progress to establish Area Partnerships in Crosby, Sefton East Parishes, Formby and Southport

KEY DECISION: Yes

FORWARD PLAN: Yes

IMPLEMENTATION DATE: 1st May 2011

ALTERNATIVE OPTIONS:

To proceed with current arrangements

Agenda Item 4

IMPLICATIONS:

Budget/Policy Framework: No Implications.

Financial: FD No. 696 - No additional financial implications

Legal: LD No. 70/11 – No direct legal implications

Risk Assessment:

Asset Management: No implications

CONSULTATION UNDERTAKEN/VIEWS

Consultation has been undertaken with Members and partners about the development of Area Partnerships

BACKGROUND PAPERS

Cabinet and Council - Governance Review – Workstreams on the Sefton Borough Partnership and Area Management, 4 March 2010

Performance Cabinet - Governance Review – Workstreams on the Sefton Borough Partnership and Area Management, 17 February 2010

Cabinet Members – Communities and Performance and Governance 3 November 2011

Cabinet and Council - Transformation Programme and Final Revenue Budget Options 2011/12, 3 March 2011

CORPORATE OBJECTIVE MONITORING:

<u>Corporate Objective</u>		<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community	√		
2	Creating Safe Communities	√		
3	Jobs and Prosperity	√		
4	Improving Health and Well-Being	√		
5	Environmental Sustainability	√		
6	Creating Inclusive Communities	√		
7	Improving the Quality of Council Services and Strengthening local Democracy	√		
8	Children and Young People	√		

1.0 BACKGROUND:

1.1 Cabinet and Council agreed to the establishment of Area Based Thematics at relevant meetings on 4 March 2010. Further to consultation these have now evolved into Area Partnerships

1.2 The Area Partnerships are currently defined within the following geographical boundaries:

- South Sefton
- Crosby
- Sefton East Parishes
- Formby
- Southport

1.3 Consultation has taken place with Members and partners around how they see the Area Partnerships developing and how they see themselves operating within them

1.4 Further to decision taken at last Cabinet on 3 March 2011 the Community Safety Area Partnerships are to be assimilated into the Area Partnerships and, therefore, the Area Partnerships will need to be operational to enable a smooth transition of this agenda.

2.0 OUTCOMES TO DATE

2.1 The South Sefton Area Partnership has been established and evolved from the pre-existing Neighbourhood Regeneration Thematic Group. This group has agreed a governing document and has identified 2 key areas of work it would like to focus on.

2.2 The Southport Area Partnership will transition from the existing Southport Partnership, further additional stakeholder engagement will be carried out to help in determining priorities for its work programme.

2.2 It is widely accepted that one size fits all approach will not work and so consultation has taken place with the other areas to establish how they see an Area Partnership working for them. There is a definite ambition to forge ahead with Area Partnerships. The outcomes of this consultation indicated:

- Clear distinction needed between Area Committee and Area Partnerships: terms of reference and roles and responsibilities should be developed
- Corporate sign up by all officers
- Need Area Partnerships to have some kind of leadership and influence, particularly if don't have a direct budget to control.
- Need clear remit and purpose if to avoid becoming a talking shop – clear outcomes and direction of travel. Danger of becoming another layer of bureaucracy with no real value if this isn't done.
- Need to build on successful ad hoc arrangements already taking place around bringing partners together to deal with specific issues. Don't want duplication. Action and clear outcomes is the most important thing, and not having meetings for meetings sake. Partnership working most successful when dealing with specific issues with a clear timescale.
- Recognition of what can and can't be dealt with at a local level and local priorities should reflect this. However, wherever possible services should be considered at the lowest level of decision making.

Agenda Item 4

- Each area will need to set out how their Area Partnership can work for them and who needs to be on them.

2.3 Partners play a key role on the Area Partnerships regardless of their individual structure or set up and so consultation is ongoing with relevant partner agencies to ascertain how they see their involvement and how Area Partnerships can support them in delivery. Discussions have been positive and outcomes will be drawn together once all discussions are complete.

3.0 PROPOSED TIMELINE FOR ROLL OUT OF AREA PARTNERSHIPS ACROSS SEFTON

3.1 It is proposed that the roll out of Area Partnerships be carried out in a phased approach with Crosby and Sefton East Parishes being established first and Southport and Formby to follow once further groundwork has been done.

3.2 A timeline has been attached at Annex 1 to suggest suitable timescales for the implementation

4.0 KEY CONSIDERATIONS FOR EACH AREA PARTNERSHIP

4.1 It is not proposed to impose a model upon any of the Area Partnerships and so there are a number of key considerations to be made upon the establishment of any Area Partnership:

- Membership – Members, key partners, businesses, any other relevant partnerships. Each Area Partnership will need to determine numbers, how to decide upon who will be represented and issue of deputies.
- Schedule of meetings and agenda structure
- How to conduct business outside of meetings – additional special meetings, task and finish groups, electronic discussion
- Review process
- How it works with its Area Committee
- How it will determine its priorities

4.2 These issues will be addressed at the inaugural meeting or prior to this where appropriate

5.0 OTHER INFORMATION

5.1 Further information to be incorporated following discussion of the proposals at the Operations Board of the Sefton Borough Partnership on 14 March 2011

6.0 RECOMMENDATIONS

6.1 It is recommended that the Cabinet Member- Performance and Governance and Cabinet Member- Communities:

- (i) Note the outcomes of Member consultation
- (ii) Note the achievements to date
- (iii) Put forward views on the proposed timeline for development to inform recommendations to Cabinet to enable further work to progress to establish Area Partnerships in Crosby, Sefton East Parishes, Formby and Southport

Appendix A									
	April	May	June	July	August	September	October	November	December
South Sefton	Area Partnership Meeting	Task and Finish Groups <i>(or locally determined approach to business)</i>		Area Partnership Meeting	Task and Finish Groups <i>(or locally determined approach to business)</i>		Area Partnership Meeting	Task and Finish Groups	
		Work programming						Review and Evaluation	
Crosby		Inaugural Meeting	1 st Theme Meeting						
			Work Programming						
Sefton East Parishes		Inaugural Meeting	1 st Theme Meeting						
			Work Programming						
Southport			Transitional arrangements moving Southport Partnership into new Southport Area Partnership						6 month progress review
			Stakeholder engagement to define priorities						
Formby		Further consultation and planning			Inaugural Meeting*	1 st Full Meeting*		Task and Finish Groups <i>(or locally determined approach to business)</i>	
						Work Programming*			
Overall	Report to Cabinet								

* Subject to agreement to proceed

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Agenda Item 5

REPORT TO: CABINET MEMBER - PERFORMANCE AND GOVERNANCE

DATE: 16 MARCH 2011

SUBJECT: CONSULTATION ON PROPOSALS TO INTRODUCE A COMMUNITY RIGHT TO BUY

WARDS AFFECTED: ALL

REPORT OF: DAVID MCCULLOUGH, ACTING HEAD OF CORPORATE LEGAL SERVICES

CONTACT OFFICER: PETER COWLEY, PRINCIPAL SOLICITOR (0151 934 2250)

EXEMPT/CONFIDENTIAL: NO

PURPOSE/SUMMARY:

To advise the Cabinet Member of a consultation by the Department for Communities and Local Government on proposals to introduce a Community Right to Buy and to set out the process for responding to the consultation paper.

REASON WHY DECISION REQUIRED:

To bring the consultation paper to the attention of the Cabinet Member.

RECOMMENDATION(S):

That the report be noted.

KEY DECISION: No

FORWARD PLAN: No

IMPLEMENTATION DATE: Following the expiry of the "call-in" period for the minutes of the meeting.

Agenda Item 5

ALTERNATIVE OPTIONS:

Not applicable.

IMPLICATIONS:

Budget/Policy Framework: None at this stage

Financial: None at this stage

Legal: None at this stage

Risk Assessment: Not applicable

Asset Management: None at this stage

CONSULTATION UNDERTAKEN/VIEWS

The Interim Head of Corporate Finance & Information Services has been consulted and has no comments on this report. **FD675 /2011**

CORPORATE OBJECTIVE MONITORING:

<u>Corporate Objective</u>		<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		√	
2	Creating Safe Communities		√	
3	Jobs and Prosperity		√	
4	Improving Health and Well-Being		√	
5	Environmental Sustainability		√	
6	Creating Inclusive Communities	√		
7	Improving the Quality of Council Services and Strengthening Local Democracy	√		
8	Children and Young People		√	

LIST OF BACKGROUND PAPERS RELIED UPON IN THE PREPARATION OF THIS REPORT

DCLG consultation paper - proposal to introduce a community right to buy - assets of community value dated 2011.

1.0 BACKGROUND

- 1.1 The Department for Communities and Local Government is currently consulting on proposals to introduce a Community Right to Buy alongside the consultation on the Community Right to Challenge.
- 1.2 The consultation is aimed primarily at Local Government, Parish Councils, Voluntary, Community and Social Enterprise (VCSE) sector organisations, private businesses, land owners and those involved in conveyancing law and Land Registry.
- 1.3 The consultation runs from 4 February 2011 to 3 May 2011. Following the consultation, the responses will be published on the DCLG's website within three months of the closing date.
- 1.4 The background to this consultation is that, under existing legislation, Local Authorities may transfer assets to community groups at below market value and approximately one third of Local Authorities have done so. The Asset Transfer Unit is funded by DCLG to support local people and community groups to take over under-used land and buildings from the public sector and transform them into thriving community spaces. The Government is now seeking to introduce new powers to help communities save local facilities threatened with closure. Parliament is in the process of considering the Localism Bill which sets the framework for this policy and was introduced to Parliament on 13 December 2010.
- 1.5 The Bill contains proposals to place a duty on Local Authorities to maintain a list of assets (land and buildings) of community value. It specifies that assets will be removed from the list after five years. The Bill provides for regulations to define what constitutes an "asset of community value" and to specify any particular assets that might be excluded from being listed. The Bill would require a Local Authority to consider a community nomination and to accept it if it meets the definition of an asset of community value. The Bill would give the owner of the land a right to have the decision to list it reviewed by the Local Authority and also a right to appeal.

The Bill would also place a duty on Local Authorities to publish a list of assets of community value to help make communities aware of listed assets in their area.

- 1.6 In order to provide a window of opportunity for community groups to express an interest and make a bid for a listed asset, the proposed legislation would prohibit an owner of listed land from making a relevant disposal of it except where all the specified conditions are satisfied. These conditions are:
 - (a) the owner must have notified the Authority of an intention to make a relevant disposal; and

Agenda Item 5

- (b) either -
 - the interim window of opportunity period has elapsed without a community interest group asking to be treated as a bidder; or
 - such a request has been received and the full window of opportunity period has elapsed; and
- (c) the owner is within a protected period when no further period of delay will apply.

Upon receiving notice from the owner of an intention to make a relevant disposal, the Local Authority must amend the list to show this intention and to give both the interim and full window of opportunity end dates (and the end date of the protected period) and must provide the same information to a nominating community group or individual. It must also publicise all these matters in the neighbourhood of the asset in question.

- 1.7 The purpose of the consultation paper is to seek comments on the detailed workings of the Community Right to Buy scheme including the following:
- (a) the definition of an "asset of community value";
 - (b) ways in which an asset may be nominated and listed;
 - (c) information to be included in community nominations;
 - (d) the procedure for listing assets;
 - (e) notification about inclusion and removal of a listed asset;
 - (f) the content and publication of the list of assets of community value and the list of unsuccessful community nominations;
 - (g) rights of review and appeal for land owners;
 - (h) length of the window of opportunity periods and the protected period;
 - (i) exempt disposals and permitted sales in the full window of opportunity period;
 - (j) the proposed basis and limits for a compensation scheme for land owners; and
 - (k) enforcement of the regulations.

2.0 PROCESS FOR RESPONDING TO THE CONSULTATION PAPER

- 2.1 It is clear that the proposals for a Community Right to Buy involves a much wider range of issues than just the Council's asset base. It would include privately owned assets such as village shops or pubs. In order to provide a range of views, a Working Group has been set up consisting of Officers from the Legal, Property, Planning, Leisure and Neighbourhoods Departments, together with the Public Engagement and Consultation Manager. The Working Group is due to meet on 10 March 2011 to discuss the Council's response to the Consultation Paper, with a view to submitting a report thereon to the Cabinet meeting on 14 April, prior to the expiration of the consultation period on 3 May 2011.

3.0 RECOMMENDATION

- 3.1 It is recommended that this report be noted.

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Agenda Item 6

REPORT TO: Cabinet Member – Performance and Governance
DATE: 16 March 2011
SUBJECT: Consultation on proposals to introduce a Community Right to Challenge
WARDS AFFECTED: All
REPORT OF: Samantha Tunney, Assistant Chief-Executive
CONTACT OFFICER: Jayne Vincent, Public Engagement and Consultation Manager, Tel: 0151 928 2233 x380
EXEMPT/CONFIDENTIAL: No

PURPOSE/SUMMARY:

To advise the Cabinet Member of a consultation by the Department for Communities and Local Government on proposals to introduce a Community Right to Challenge and the process for responding to the consultation paper

REASON WHY DECISION REQUIRED:

To bring the consultation paper to the attention of the Cabinet Member

RECOMMENDATION(S):

That the report be noted

That the draft response be shared with the Cabinet Member and the Opposition Spokespersons outside of his meeting, prior to the response being presented to Cabinet.

KEY DECISION: No
FORWARD PLAN: No
IMPLEMENTATION DATE: Immediately following the expiry of the call-in period for this report

Agenda Item 6

ALTERNATIVE OPTIONS:

Not to respond to the Consultation.

IMPLICATIONS:

Budget/Policy Framework: None at this stage

Financial:-

There are no immediate financial implications arising directly from this report at this stage.

<u>CAPITAL EXPENDITURE</u>	2010/ 2011 £	2011/ 2012 £	2012/ 2013 £	2013/ 2014 £
Gross Increase in Capital expenditure				
Funded by:				
Sefton Capital Resources				
Specific Capital Resources				
<u>REVENUE IMPLICATIONS</u>				
Gross Increase in Revenue Expenditure				
Funded by:				
Sefton funded Resources				
Funded from External Resources				
Does the External Funding have an expiry date? Y/N				
How will the service be funded post expiry?				

Agenda Item 6

Legal: None at this stage

Risk Assessment: Not applicable

Asset Management: Not applicable

CONSULTATION UNDERTAKEN/VIEWS

Consultation in preparation of this report has been undertaken with the Legal Department

CORPORATE OBJECTIVE MONITORING:

<u>Corporate Objective</u>		<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		√	
2	Creating Safe Communities		√	
3	Jobs and Prosperity		√	
4	Improving Health and Well-Being		√	
5	Environmental Sustainability		√	
6	Creating Inclusive Communities	√		
7	Improving the Quality of Council Services and Strengthening local Democracy	√		
8	Children and Young People		√	

LIST OF BACKGROUND PAPERS RELIED UPON IN THE PREPARATION OF THIS REPORT

DCLG consultation paper – Proposal to introduce a Community Right to Challenge

Agenda Item 6

1. Background

- 1.1 The Department for Communities and Local Government is currently consulting on proposals to introduce a Community Right to Challenge (attached as Annex X) alongside the consultation on the Community Right to Buy.
- 1.2 The consultation is aimed primarily at relevant authorities and relevant bodies (voluntary and community bodies, charities, parish councils and relevant authority employees). They also welcome views from individual service users.
- 1.3 The consultation will run for 12 weeks, from 4th February to 3 May 2011. The responses will then be published on the DCLG's website within three months of the closing date.
- 1.4 The Coalition Government has been clear from the early days in Government that there will be a shift from 'centralised bureaucracy that wastes money and undermines morale' to 'open up public services to new providers'. The Localism Bill, which was introduced to Parliament in December 2010 will make it easier for local people to give the green light to the building of shops, businesses and homes where they are needed. The Bill also provides Voluntary and Community Groups or Charitable Trusts, Parish Councils and authority employees to challenge to take over the running of local public services and to prepare bids to take over local amenities and buildings when they come up for sale.
- 1.5 The Bill sets out the statutory framework for the Community Right to Challenge and will give these groups the ability to bring their proposals to take on the running of a service to the attention of the local council and require it to give them proper consideration.
- 1.6 The consultation sets out a series of questions, relevant to local authorities which explore aspects of how the right might operate, which will be set out later in regulations. Subject to Parliamentary consideration, it is expected that the provisions will be commenced from either April or October 2012.
- 1.7 The Community Right to Challenge is not a right to deliver the service if an Expression of Interest is submitted or accepted and the Bill applies the Right only to delivery of services on *behalf* of the relevant authority and not independently of the relevant authority. The Right does not apply to functions. It applies to services that are jointly commissioned if the body responsible for the function that the service relates to is a relevant authority.

2. The scope of the consultation

- 2.1 Subject to parliamentary approval, the intention is to include the necessary detail of how this proposed Right will work in regulations. Issues which may be covered in regulations are the subject of this consultation:
 - a) services that should be exempted from this new Right;

Agenda Item 6

- b) general principles that should apply in considering which services should be exempt;
- c) enlarging the Right to apply to other bodies (for example the Fire & Rescue Service);
- d) if relevant authorities opt to specify periods during which they will consider to Expressions of Interest, the minimum length of such periods;
- c) information to be included in an Expression of Interest;
- d) the maximum period between a relevant authority receiving an Expression of Interest and deciding to accept, accept with modification, or reject;
- e) grounds on which a relevant authority may reject an Expression of Interest;
- f) the minimum and maximum period between a relevant authority accepting an Expression of Interest and initiating procurement exercise relating to the provision of the relevant services;
- g) support and guidance

3. Why this consultation paper is relevant to Sefton Council

- 3.1 The Community Right to Challenge provisions enables relevant authorities to specify periods during which Expressions of Interest may be submitted either for all or for particular services. This is designed to enable the process of submitting Expressions of Interest to form part of commissioning cycles for services. This should be taken into consideration when developing a Council Commissioning Framework. It will also be relevant to the decommissioning of services.
- 3.2 The Right also enables bodies to express an interest in running a service, which may trigger a procurement exercise, in line with legal requirements.
- 3.3 The Bill requires that relevant authorities publish details of each specification and the reasons for rejection.
- 3.4 The Community Right to Challenge is linked to a number of other Coalition policies. One of which is the Community Right to Buy which is presented elsewhere on the agenda.

4. Process for responding to the consultation paper

- 4.1 Representations from Planning, Procurement, Legal and Democracy will be sought to formulate a response, with a view to submitting a report to the Cabinet meeting on 14 April, prior to the expiration of the consultation period on 3rd May.

Agenda Item 6

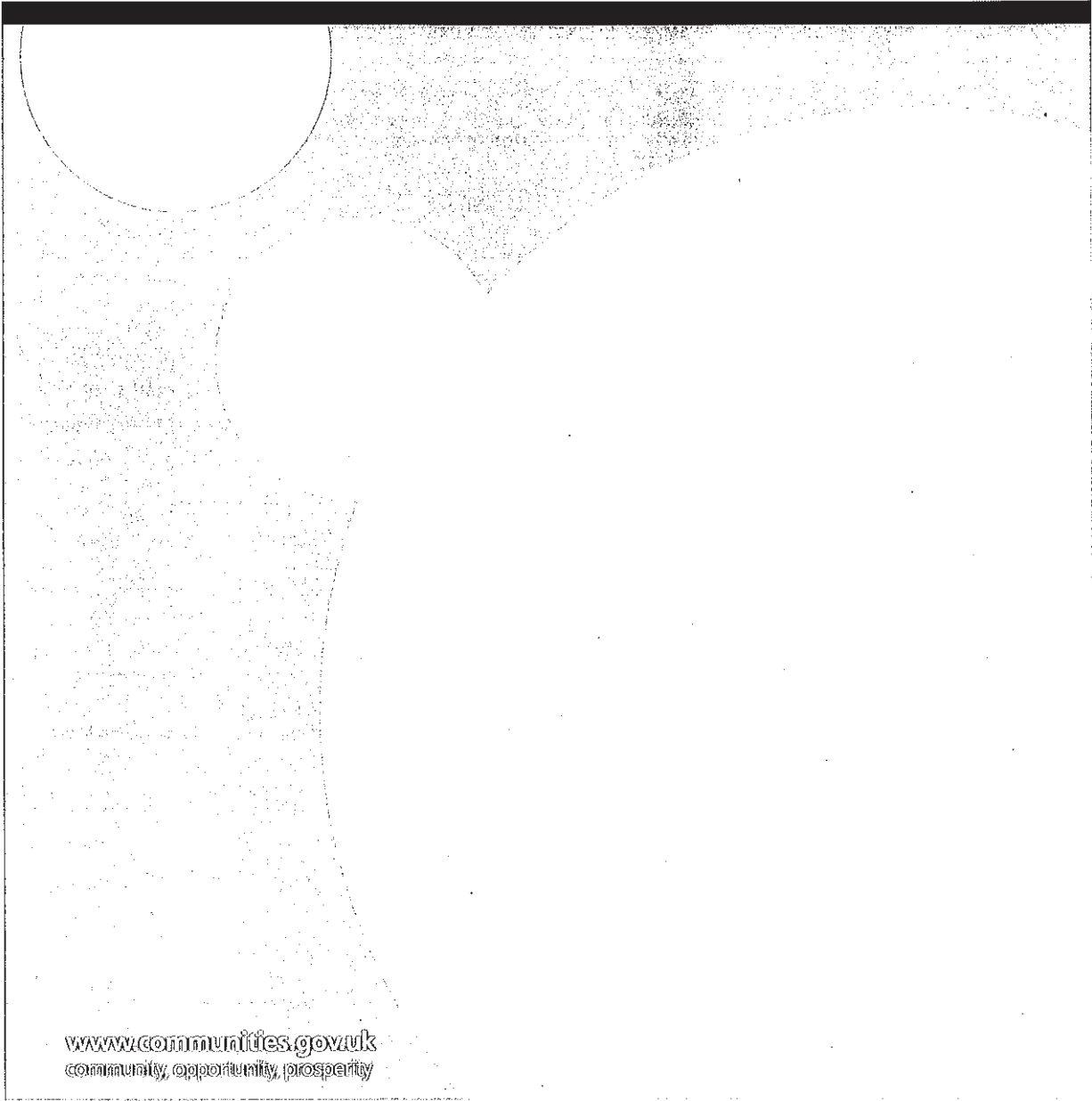
5. Recommendations

Cabinet Member Performance and Governance is recommended to:

- a) note the report
- b) That the draft response be shared with the Cabinet Member and the Opposition Spokespersons outside of his meeting, prior to the response being presented to Cabinet.



Proposals to introduce a Community Right to Challenge
Consultation paper



www.communities.gov.uk
community, opportunity, prosperity

Agenda Item 6



Proposals to introduce a Community Right to Challenge **Consultation paper**

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

If you require this publication in an alternative format please email:
alternativeformats@communities.gsi.gov.uk

Any enquiries regarding this document/publication should be sent to us at:

Department for Communities and Local Government
Eland House
Bressenden Place
London
SW1E 5DU
Telephone: 030 3444 0000

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Agenda Item 6

| 3

Contents

Consultation overview	4
Ministerial foreword	9
Glossary	11
Section 1: Introduction	12
Section 2: Which services should not be subject to challenge?	18
Section 3: Relevant bodies and relevant authorities	21
Section 4: When a relevant authority will consider Expressions of Interest	23
Section 5: Information to be included in an Expression of Interest	25
Section 6: Period during which a relevant authority must reach a decision on an Expression of Interest	28
Section 7: When an Expression of Interest may be modified or rejected	30
Section 8: Period between an Expression of Interest being accepted by a relevant authority and a procurement exercise relating to the provision of the service beginning	33
Section 9: Support and guidance	35
Annex A: Summary of consultation questions	36
Annex B: Consultation criteria	38

The Consultation Process and How to Respond

Scope of the consultation

Topic of this consultation:	Community Right to Challenge
Scope of this consultation:	The statutory framework for the Community Right to Challenge is provided in Part 4, Chapter 3 of the Localism Bill. This Bill was introduced on 13 December 2010 and is outside the scope of this consultation. However, the Bill includes a number of powers to specify further detail underpinning the Community Right to Challenge in regulations. This consultation invites views on these aspects.
Related consultation:	<p>Alongside this consultation, we have published a consultation on the Community Right to Buy. This is available at www.communities.gov.uk/corporate/publications/consultations</p> <p>For all enquiries, and to respond to the Community Right to Buy consultation, please email crtbuy@communities.gsi.gov.uk or write to:</p> <p>Community Right to Buy Consultation Team Department for Communities and Local Government 5/A3 Eland House Bressenden Place London SW1E 5DU</p>
Geographical scope:	England
Impact Assessment:	The impact assessment for this policy has been published on the DCLG website at: www.communities.gov.uk/publications/localgovernment/localismrighttochallenge

Agenda Item 6

Basic Information

To:	This consultation is aimed primarily at relevant authorities (county, district and London Borough councils) and relevant bodies (voluntary and community bodies, charities, parish councils and relevant authority employees). We also welcome views of individual service users.
Body responsible for the consultation:	The Department for Communities and Local Government is responsible for this consultation.
Duration:	This consultation will be open for 12 weeks, from 4 February 2011 to 5pm on 3 May 2011.
Enquiries and how to respond:	<p>For enquiries, and to respond to this consultation, please email crtchallenge@communities.gsi.gov.uk or write to:</p> <p>Community Right to Challenge Consultation Team Department for Communities and Local Government 5/A3 Eland House Bressenden Place London SW1E 5DU</p> <p>For more information, please see www.communities.gov.uk</p>
Additional ways to become involved:	<p>Throughout the consultation period we will be speaking to a wide range of interested parties. We will be organising consultation events which will be publicised on the Department's website: www.communities.gov.uk</p> <p>If you would be interested in attending a consultation event, please email crtchallenge@communities.gsi.gov.uk or write to the consultation team at the above address.</p>
After the consultation:	A summary of the responses to the consultation will be published on the Department's website within three months of the closing date of the consultation.
Compliance with the Code of Practice on Consultation:	This consultation complies with the Code of Practice on Consultation (a summary of which is at Annex B).

Background

<p>Getting to this stage:</p>	<p>The <i>Coalition Programme for Government</i>¹ committed to 'introduce new powers to give communities the right to bid to take over local state-run services.' Services referred to in this consultation that would be subject to challenge are those delivered by, or on behalf of, a relevant authority (county, district or London Borough council).</p> <p>HM Treasury published a call for evidence on Public Service Reform in November 2010.² The Open Public Services White Paper is due to be published in February 2011. Cabinet Office also published the Modernising Commissioning Green Paper in December 2010.³ These both sought views on whether the Community Right to Challenge should be extended to apply to other public bodies as relevant authorities. Responses to these documents will be considered in exploring which public bodies the Community Right to Challenge may be extended to in the future.</p>
<p>Previous engagement:</p>	<p>Initial discussions have been held with representatives from local government and voluntary and community bodies.</p>

How to respond

1. Questions on which we are seeking input are raised throughout this document. These are repeated at Annex A. We encourage you to use the Word format questionnaire associated with this consultation paper. Responses to this consultation must be received by 5pm on 3 May 2011.
2. You can respond by email to crtchallenge@communities.gsi.gov.uk or write to:

Community Right to Challenge Consultation Team
 Department for Communities and Local Government
 5/A3 Eland House
 Bressenden Place
 London SW1E 5DU

¹ www.cabinetoffice.gov.uk/news/coalition-documents

² www.hm-treasury.gov.uk/consult_publicservice_reform.htm

³ <http://download.cabinetoffice.gov.uk/green-paper/commissioning-green-paper.pdf>

3. When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of an organisation, please give a summary of the people and organisations it represents and, where relevant, who else you have consulted in reaching your conclusions.

Additional copies

4. This consultation paper, complete with electronic response form, is available on the Department for Communities and Local Government website at www.communities.gov.uk. You may obtain a hard copy of this consultation paper from the address given at paragraph 2 above.
5. If you require this publication in an alternative format please email crtchallenge@communities.gsi.gov.uk

Or online via the website at www.communities.gov.uk

Confidentiality and data protection

6. Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004).
7. If you want the information that you provide to be treated as confidential, please be aware that, under the Freedom of Information Act 2000, 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. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, in itself, be regarded as binding on the department.
8. The Department for Communities and Local Government will process your personal data in accordance with the Data Protection Act 1998 and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. Individual responses will not be acknowledged unless specifically requested.
9. Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Help with queries

10. Questions about the policy issues raised in the document can be sent to the address given at paragraph 2 above.
11. A copy of the consultation criteria from the Code of Practice on Consultation is at Annex B. Are you satisfied that this consultation has followed these criteria? If not or you have any other observations about how we can improve the process please email:

consultationcoordinator@communities.gsi.gov.uk or write to:

DCLG Consultation Co-ordinator
Zone 8/J6
Eland House
Bressenden Place
London SW1E 5DU

Ministerial foreword

"...we've got to get rid of the centralised bureaucracy that wastes money and undermines morale and in its place we've got to... open up public services to new providers... so we get more innovation, diversity and responsiveness to public need. We need to create communities with oomph – neighbourhoods who are in charge of their own destiny, who feel if they club together and get involved they can shape the world around them."

Prime Minister, Liverpool, 19 July 2010.

In the early days of the new Government, the Prime Minister gave a speech in Liverpool, setting out one of the major shared principles uniting the two parties in power. That principle is localism. For too long, decision-makers have sought to improve public services by exercising power and influence from central government. Central targets and directions create bureaucracy and swallow up public money; they stifle local innovation, and stop people making their own decisions about things that matter to them.

This Government has a different vision. We want to restore power to local people and their democratically elected representatives. We want to help them make their own decisions. And we want to give free rein to the creativity, the ingenuity and the initiative of communities up and down the country.

Since May 2010, we have started putting that vision into practice. We have cut back town hall bureaucracy and created local flexibility to decide how best to spend taxpayers' money. We've laid the foundations for a new generation of free schools and set out our plans to make the police more responsive to local people's needs. But this is only a start. The Localism Bill, published in December 2010, represents a further step forward.

The Localism Bill has the potential to transform national life. It will give town halls far more discretion to get on with the job of responding to what local people want. It will make the planning system more responsive to communities and allow for much greater local control over social housing. Crucially, it will also pass new rights and powers direct to local communities.

Under the Bill, it will become easier for local people to give the green light to the building of shops, businesses and homes where they are most needed. Voluntary and community groups, parish councils and authority employees will be able to challenge to take over the running of local public services. And when important local amenities and buildings – such as old town halls, village shops or pubs – come up for sale, communities will have extra time to prepare a bid to take them over, making it easier to keep much-loved assets in public use and part of local life.

In order to make the most of the Bill's potential to achieve swift, widespread and lasting change, the Government is beginning consultation now on how it might use the community rights provisions in the Bill to best effect.

This consultation is about the right for community and voluntary bodies, parish councils and authority employees to bid to take over the running of local authority services. Many local authorities already recognise the unique role that these groups can play in designing and delivering local services – often offering new ideas, a deeper understanding of service users' needs, and good value for taxpayers' money. In other places, however, sensible suggestions can fall on deaf ears.

The "Community Right to Challenge" in the Localism Bill will give these groups the ability to bring their proposals to take on the running of a service to the attention of the local council and require it to give them proper consideration. Regulations will be needed to ensure this right works effectively in practice. We want to make sure that they are well-designed and that this new right makes the biggest possible difference, giving local people a means to exercise influence. This consultation document sets out a series of questions – relevant to voluntary and community groups, parish councils, local authorities and others – which explore aspects of how the right might operate.

We look forward to hearing your comments on how we can make this new right work effectively in practice, and put real power in the hands of local people.

Greg Clark
Minister for Decentralisation

Glossary

Relevant authority

Authorities that are required to consider Expressions of Interest to run services which they are responsible for. The Localism Bill lists relevant authorities as **county and district councils and London borough councils**. The Bill provides that the Secretary of State may add further 'relevant authorities' in secondary legislation

Relevant body

Bodies who may make an Expression of Interest to run a service. If accepted, this will trigger a procurement exercise relating to the provision of that service. The Localism Bill lists relevant bodies as **voluntary and community bodies, charities, parish councils and two or more staff of a relevant authority**. The Bill provides that the Secretary of State may add further 'relevant bodies' in secondary legislation

Relevant service

A service provided by, or on behalf of, a relevant authority in the exercise of any of its functions. The Localism Bill provides that the Secretary of State may exempt services from the Community Right to Challenge in secondary legislation (see Section 2). Importantly, all functions of a relevant authority are outside of the scope of the Community Right to Challenge and accordingly, unable to be challenged. In other words, the new right does not enable a local authority's functions themselves, including decision making about service provision, to be contracted out to third parties

Section 1:

Introduction

What is the Community Right to Challenge?

- 1.1 The Community Right to Challenge is an important part of the Government's plans to shift power from Whitehall to councils, and beyond to citizens and communities – and to help build a Big Society where everyone plays their part.
- 1.2 Many local authorities already make good use of the talents of voluntary and community bodies, charities, social enterprises, mutuals and co-ops. They already successfully run local services including in education, tackling worklessness, the environment and social care. But in other places good suggestions do not get a fair hearing. The Community Right to Challenge enables these bodies to express an interest in running a service, which may trigger a procurement exercise relating to the provision of relevant authority services on the authority's behalf.
- 1.3 The Right will hand the initiative to communities and the bodies that represent them who have innovative ideas about how services could be shaped to better meet local needs, or could be run more cost effectively. It will ensure these ideas get a fair hearing and give them the time they need to organise themselves and develop their ideas to be able to bid to run the service.
- 1.4 The Coalition Programme for Government committed to "give communities the right to bid to take over local state-run services". The Community Right to Challenge gives effect to this commitment. This is linked to another coalition agreement to give public sector workers a new right to form employee-owned co-operatives and bid to take over the services they currently deliver, on which Cabinet Office is leading, called Rights to Provide. Other linked policies from the Coalition Programme for Government include:
 - Introducing new powers for communities to save local facilities threatened with closure (Community Right to Buy).
 - Creating new rights that will make it simpler for communities to provide homes for local people (Community Right to Build).

- Supporting the creation and expansion of mutuals, co-operatives, charities and social enterprises, and enable these groups to have much greater involvement in the running of public services (see Modernising Commissioning Green Paper⁴).
- 1.5 The Community Right to Challenge will encourage greater diversity of service provision, has the potential for reduced costs of service provision for local public bodies, and improved innovation and responsiveness. It will help stimulate the behaviour change necessary to empower communities and citizens by creating neighbourhoods who feel their involvement can shape the world around them.
- 1.6 The Localism Bill was introduced to Parliament on 13 December 2010 and sets out the framework for the Community Right to Challenge. This consultation invites views on proposals for the detailed workings of the Right, which will be set out later in regulations. Subject to Parliamentary consideration, it is expected that the provisions will be commenced from either April or October 2012.
- 1.7 In this consultation document, we have sought to identify which elements of Community Right to Challenge ought to be applied consistently across all services and relevant authorities in regulations and where this should be determined locally to suit local circumstances. For example, we are proposing that relevant authorities should have flexibility to decide which Expression of Interest is accepted if more than one is submitted.
- 1.8 We are particularly interested to hear views on whether these proposals achieve the appropriate balance between ensuring that relevant bodies everywhere can expect a fair hearing without facing a disproportionate burden, whilst giving local authorities the information they need to make a judgement. We would also welcome views on whether there are issues on which guidance to relevant authorities and/or others could be usefully provided.
- 1.9 The primary legislation (as introduced) specifies the following:
1. A requirement for a 'relevant authority' to consider an Expression of Interest submitted by a relevant body.
 2. Lists who is a 'relevant authority' and 'relevant body'.
 3. Defines who is a 'voluntary body' and 'community body' (both of which are relevant bodies).
 4. Enables a relevant authority to set periods during which Expressions of Interest can be submitted.

⁴ <http://download.cabinetoffice.gov.uk/green-paper/commissioning-green-paper.pdf>

5. Requires a relevant authority to accept, accept with modification (if relevant body agrees) or decline an Expression of Interest.
6. Requires a relevant authority to consider how the Expression of Interest and procurement exercise relating to the provision of the service might promote/improve the social, economic or environmental well-being of the authority's area.
7. Requires an authority to carry out a procurement exercise relating to the provision of the service on behalf of the relevant authority, in line with relevant legal requirements, where they accept an Expression of Interest.
8. Requires relevant authorities to have regard to any guidance issued by the Secretary of State on the Community Right to Challenge.

1.10 The Localism Bill (as introduced) gives the Secretary of State powers to do the following in regulations:

1. Add further 'relevant authorities' and 'relevant bodies' and amend the definitions of voluntary and community body.
2. Set minimum periods that authorities may specify for submission of Expressions of Interest.
3. Set minimum and maximum periods between Expressions of Interest being accepted and the procurement exercise relating to the provision of the service on behalf of the relevant authority.
4. Specify grounds on which an Expression of Interest may be rejected.
5. Set maximum periods during which a relevant authority must reach a decision on an Expression of Interest.

What is not within the scope of the Community Right to Challenge?

1.11 The Community Right to Challenge is not any of the following:

- A right to deliver the service if an Expression of Interest is submitted or accepted – it is for the relevant authority to decide, in line with statutory provisions, whether or not to accept an Expression of Interest, and where it accepts it, it must carry out a procurement exercise relating to the provision of the relevant service in which the relevant body can bid alongside others. This means the relevant body that triggers the exercise may not eventually be the provider of that service.
- Delivering a service independently of the relevant authority – the Right applies only to delivery of services *on behalf of* the relevant authority.

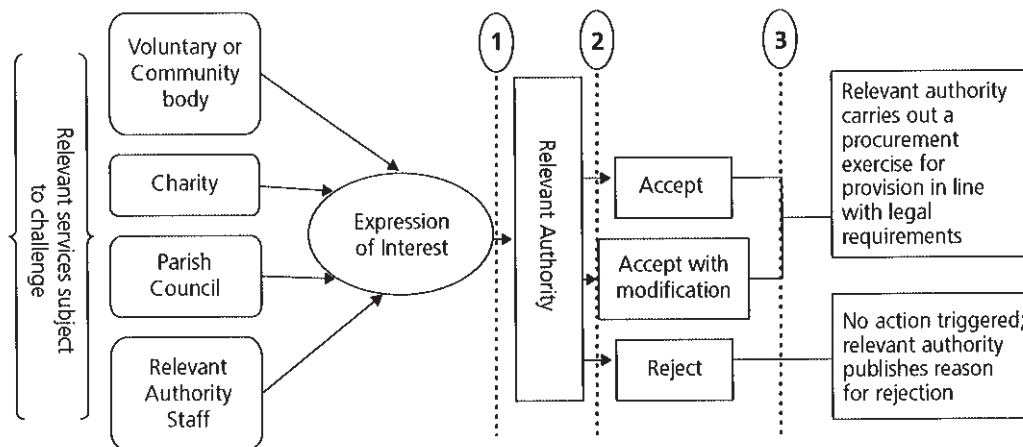
- A way of requiring a relevant authority to continue providing a service it has decided to stop – although the Right will enable relevant authorities to make best use of the innovation, responsiveness and cost savings that relevant bodies and other bidders in a procurement exercise can offer. The Community Right to Challenge applies only to relevant services, i.e. those which are provided by, or on behalf of, the relevant authority.
- A way for service users to complain to the relevant authority if they are dissatisfied with how the service is currently being delivered or with decisions the relevant authority has made about what services it will deliver. Different relevant authorities have existing complaints procedures, and good commissioning processes should allow service users the opportunity to give their views on service provision in their area. The Community Right to Challenge enables relevant bodies to submit Expressions of Interest to deliver a relevant service; bodies should intend to participate in any subsequent procurement exercise relating to the provision of the relevant service.

What we are consulting on

- 1.12 The Localism Bill sets the statutory framework for the Community Right to Challenge. Subject to Parliamentary approval of the Localism Bill, we intend to include the necessary detail of how this proposed Right will work in regulations. Subject to the relevant Parliamentary scrutiny, we intend to introduce secondary legislation as soon as practicable after Royal Assent. Secondary legislation will be in the form of regulations. Issues which may be covered in regulations, and which are the subject of this consultation, are:
- services that should be exempted from this new Right (Section 2)
 - if relevant authorities opt to specify periods during which they will consider Expressions of Interest, the minimum length of such periods (Section 4)
 - information to be included in an Expression of Interest (Section 5)
 - the maximum period between a relevant authority receiving an Expression of Interest and deciding to accept, accept with modification, or reject (Section 6)
 - grounds on which a relevant authority may reject an Expression of Interest (Section 7)
 - the minimum and maximum period between a relevant authority accepting an Expression of Interest and initiating a procurement exercise relating to the provision of the relevant service (Section 8).
- 1.13 This consultation seeks views on where regulation is necessary, and if so what should be included in the regulations.

- 1.14 We recognise that some relevant bodies may be less able to take advantage of the Community Right to Challenge without some support. This consultation therefore seeks views on what form that support might take (Section 9). Finally, the Localism Bill includes a power to provide guidance on the Community Right to Challenge, and this consultation asks whether there are any issues on which guidance might be welcomed.

Community Right to Challenge Process



1. All relevant authority (county, district and London borough council) services are subject to Community Right to Challenge, unless excluded in regulations (Section 2).
2. Relevant bodies (voluntary and community bodies, charities, parish councils and two or more staff of the relevant authority) may submit an Expression of Interest to deliver all or part of a service on behalf of the relevant authority (Section 3).
3. Relevant authorities may specify periods of time during which Expressions of Interest may be submitted to deliver particular services or parts of services. This is to enable authorities to align this with their commissioning cycles (timeline 1 in the diagram, Section 4).
4. The Expression of Interest must include specified information (Section 5).
5. The relevant authority has a certain period of time in which it must consider and reach a decision on Expressions of Interest (timeline 2 in the diagram, Section 6).
6. The relevant authority must accept, accept with modification, or reject Expressions of Interest. If it accepts with modification or rejects an Expression of Interest, it must publish the reasons for its decision (Section 7).

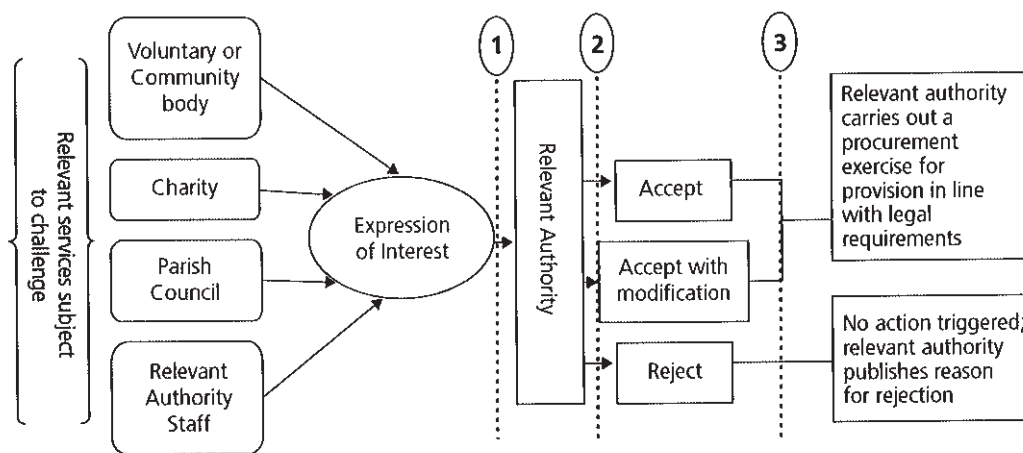
Agenda Item 6

7. If an Expression of Interest is accepted, the relevant authority must carry out a procurement exercise relating to the provision of that service. This should be appropriate to the nature and value of the contract. So where the contract is for a service, or it is of a value to which the Public Contracts Regulations 2006⁵ apply, the authority must follow the procedures for advertising, tendering and awarding contracts set out in those regulations. Where the service is of a nature or value that the Public Contracts Regulations 2006 do not apply (i.e. where it is listed in the regulations as being exempt, or is below the threshold of £156,000) then the authority will need to decide what sort of exercise to run – just as it will already do when contracting out a service. Other organisations may bid in the procurement exercise that follows a successful challenge relating to the provision of the service – these could include other relevant bodies, or private sector organisations. The Localism Bill includes provision to specify in regulations minimum and maximum periods between an authority accepting an Expression of Interest and starting an exercise (timeline 3 in the diagram, Section 8).

⁵ www.legislation.gov.uk/ukSI/2006/5/contents/made

Section 2:

Which services should not be subject to challenge?



2.1 The Localism Bill applies the Community Right to Challenge to all relevant authority services, with the power to identify exemptions in regulations. This consultation seeks views on which services should be exempted in regulations.

Functions and services

2.2 The Bill applies the Community Right to Challenge only to *services* which are provided by, or on behalf of, relevant authorities. It does not apply to *functions* of relevant authorities. Generally speaking, a function is a duty or power that requires decision-making by the responsible person or body, whereas a service does not. For example, decisions on planning applications would be a function, but waste collection is a service. This means that the relevant authority takes all the necessary decisions so that it is able to set out in the documentation the extent and type of service that it wishes to contract out.

2.3 Where services are jointly commissioned whether that service is subject to the Community Right to Challenge would depend on whether the body responsible for the function that the service relates to is a relevant authority or not. For example, if a service relates to the function of a County Council (a relevant authority) but is jointly commissioned by the authority and the NHS, it would be subject to the Community Right to Challenge, but if the responsible body for the function was the NHS it would not.

Case Study 1: What constitutes a function and a service?

Youth Justice Services

The Crime and Disorder Act (1998) places a duty on local authorities to ensure there is appropriate provision of youth justice services. Decisions (reached following consultation with interested parties as part of the commissioning cycle) on which services are provided, where they are located, funding etc. are a **function** of the authority. The Right to Challenge will not apply here.

Individual (parts of) **services** with young people to prevent further offending may be delivered by local authority staff, or may be procured. This means the authority would set out the requirements of the service in a specification to which potential providers would bid to deliver. This may for example include addressing specific difficulties faced by young offenders, such as drug and alcohol problems or homelessness. The Community Right to Challenge will apply here.

Case Study 2: Which services can be challenged?

Local Authority Maintained Schools

The law places a number of duties directly on Governing Bodies of schools in England. This gives them a strategic role within schools and they have responsibility for awarding contracts for many of the services delivered in that school – these are delivered on behalf of the Governing Body as the commissioning body. These services would not be subject to the Community Right to Challenge as the commissioning body in this case would not be a relevant authority. Where the Local Education Authority is the commissioning body for services delivered in schools, these would be subject to the Community Right to Challenge.

Exemptions due to existing legislation

- 2.4 In some cases there is existing legislation that requires services to be delivered by the authority. These will not be subject to the Community Right to Challenge, and will be listed as excluded services in regulations.
- 2.5 For example, in relation to Fire and Rescue, the 2004 Fire and Rescue Services Act effectively requires that certain core activities are specifically delivered by employees of Fire and Rescue Authorities, some of which are the County Council (see also Section 3.9). The following activities will be excluded from the Community Right to Challenge:

- Fire and Rescue Authorities employ fire-fighters to put out fires and undertake rescues from fires.
- Fire and Rescue Authorities respond to road accidents – fire-fighters undertake this role, jointly with fire fighting.

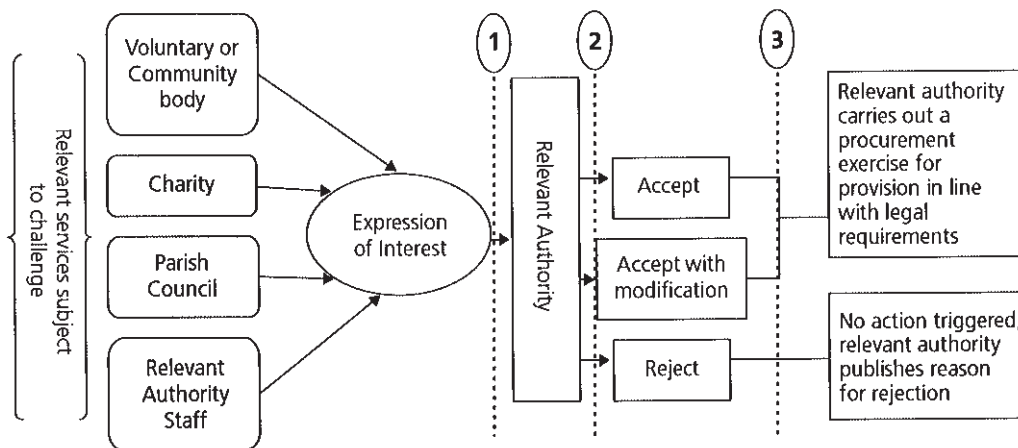
Exemptions for other reasons

- 2.6 There may also be other reasons why there is a case for excluding particular activities from the Community Right to Challenge. This may relate to those integrated with services that are excluded due to existing legislation, such as Fire and Rescue Authorities responding to other emergencies, including collapsed buildings and hazardous materials. Or there may be a case for exclusion where there is a need to retain impartiality, such as advice given before and after planning applications are made to local planning authorities.

- Q1. Are there specific services that should be exempted from the Community Right to Challenge? If yes, why?**
- Q2. Are there any general principles that should apply in considering which services should be exempt?**

Section 3:

Relevant bodies and relevant authorities



Relevant bodies

3.1 The Community Right to Challenge provisions in the Localism Bill list the relevant bodies as:

- a voluntary or community body
- a body of persons or a trust which is established for charitable purposes only
- a parish council
- in relation to a relevant authority, two or more employees of that authority.

3.2 All of these bodies represent communities in different ways – whether they are made up of members of the community, work in – or for the benefit of – the community, or already deliver services for the community. Community in this instance can refer to either a community of interest or part or all of the population within the relevant authority area.

3.3 These bodies are eligible to submit an Expression of Interest. They will need to provide the required information (see Section 5) and intend to bid in the procurement exercise that follows a successful challenge relating to the provision of the service – these could include other relevant bodies, or private sector organisations.

- 3.4 The Cabinet Office is working to develop Rights to Provide for public sector workers who want to run the services they deliver as mutual organisations. The Community Right to Challenge enables employees of a relevant authority that want to deliver the service as a mutual to submit an Expression of Interest in this. The Community Right to Challenge will be the mechanism for implementing a Right to Provide for local authority employees.
- 3.5 The Localism Bill defines 'voluntary body' and 'community body' as follows:
- "Voluntary body" means a body, other than a public or local authority, the activities of which are not carried on for profit. The fact that a body's activities generate a surplus does not prevent it from being a voluntary body so long as that surplus is used for the purposes of those activities or invested in the community.*
- "Community body" means a body that carries on activities primarily for the benefit of the community.*
- 3.6 As organisations that are not part of the state but re-invest any profit, this includes social enterprises and many co-operatives and mutuals.
- 3.7 There is provision in the Bill to add relevant bodies, and to amend the definitions of voluntary and community bodies, through regulations.

Relevant authorities

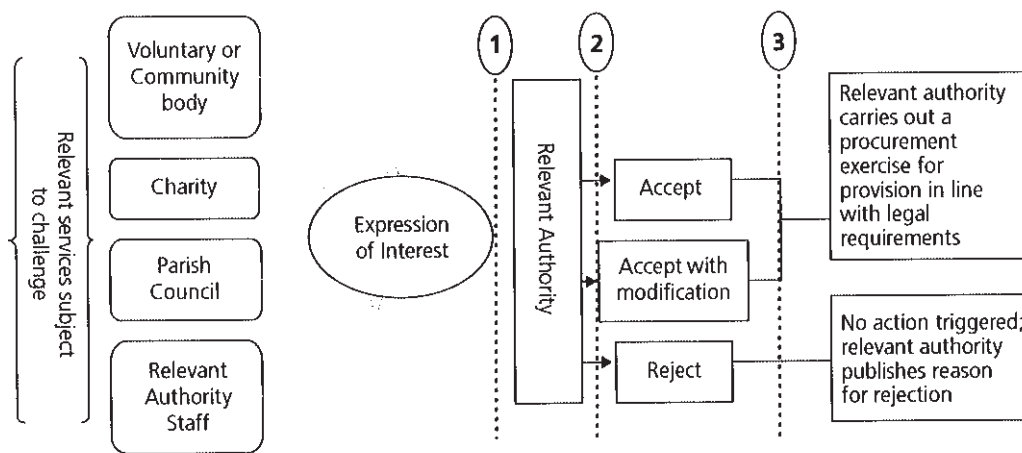
- 3.8 The Bill lists relevant authorities in respect of the Community Right to Challenge as County Councils, District Councils, and London Borough Councils.
- 3.9 There is provision in the Bill to enlarge the current definition of relevant authority by extending the Community Right to Challenge to apply to other bodies carrying out a function of a public nature. Section 2.5 explains that some Fire and Rescue Authorities are the County Council and some are not. We are minded to extend the Community Right to Challenge to make all Fire and Rescue Authorities relevant authorities in regulations, whilst excluding certain core services (see Section 2).

Q3. We are minded to extend the Community Right to Challenge to apply to all Fire and Rescue Authorities. Do you agree?

Q4. Should the current definition of relevant authority under the Community Right to Challenge be enlarged in future to apply to other bodies carrying out a function of a public nature? If yes, to which bodies?

Section 4:

When a relevant authority will consider Expressions of Interest



4.1 The Community Right to Challenge provisions in the Localism Bill enable relevant authorities to specify periods during which Expressions of Interest may be submitted either for all services or for particular services. This is designed to limit the burden on relevant authorities by enabling the process of submitting Expressions of Interest to form part of commissioning cycles for services. Where a service is already delivered by a provider other than the authority this will enable the authority to consider Expressions of Interest alongside the future of the service, prior to the expiry of the contract. If authorities opt to specify periods, they may refuse to consider Expressions of Interest submitted outside of that time. If periods are not specified then Expressions of Interest may be submitted at any time.

4.2 The Bill allows for the Secretary of State to specify in regulations minimum periods that may be set by relevant authorities during which Expressions of Interest can be submitted and requires that relevant authorities publish details of each specification in such a manner that it sees fit (which must include publication on the authority's website). In considering a minimum period, it is important to consider that this would need to be appropriate across the wide range of services that are expected to be subject to challenge and allow sufficient time for relevant bodies to prepare Expressions of Interest. There are also likely to be variations in the advance notice of periods during which Expressions of Interest may be submitted.

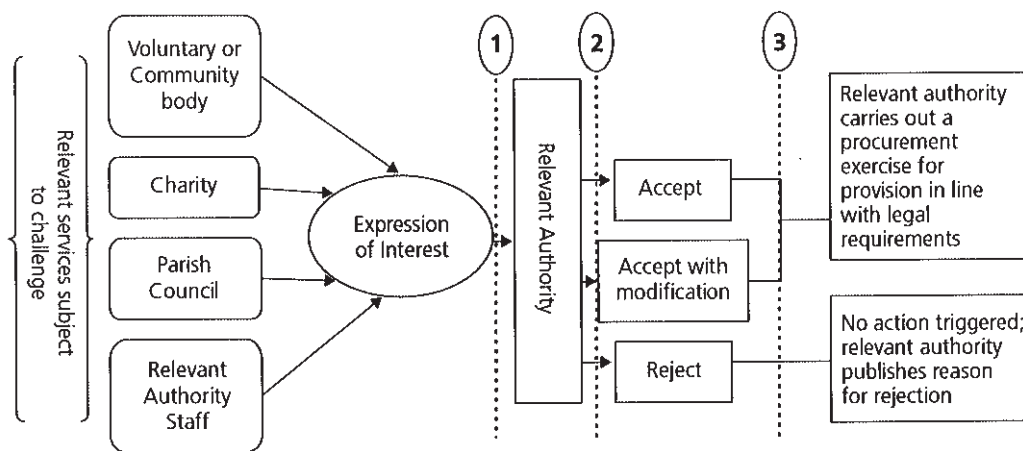
- 4.3 Where an authority specifies a period during which Expressions of Interest may be submitted, we would expect the time for relevant authorities to reach a decision to apply from the end of that period (Section 6). This would allow the authority to consider all Expressions of Interest and avoid giving an unfair advantage to those able to submit first. Where no periods are specified, it will be for the authority to decide how it will manage this in a fair and transparent way.

Q5. Should regulations specify a minimum period during which relevant authorities must consider Expressions of Interest? If yes, what should this be?

Q6. If a minimum period is specified, what should this be?

Section 5:

Information to be included in an Expression of Interest



- 5.1 Community Right to Challenge provisions in the Localism Bill require that in order to initiate a challenge a relevant body must submit an Expression of Interest to a relevant authority to deliver an existing relevant service. If the Expression of Interest is accepted, this triggers a procurement exercise relating to the provision of the service.
- 5.2 This section seeks views on what information should be included in an Expression of Interest. We are seeking to achieve a balance whereby the relevant authority has sufficient information on which to reach a decision on whether or not to accept the Expression of Interest (see Section 7), and avoiding a disproportionately high burden on the relevant body.
- 5.3 We propose that the following information should be included in any Expression of Interest. This should be proportionate and appropriate to the service(s) (or parts thereof) the Expression of Interest relates to. It should also include where relevant information relating to how the relevant body is proposing to deliver the service differently:
 - Details of the relevant body submitting the Expression of Interest.
 - Details of the relevant service(s) to which the Expression of Interest relates (including for example the precise geographical area the body wishes to deliver that service).

- Details of the outcome to be achieved by the relevant body's provision or involvement in provision of the relevant service(s). In particular this would include the 'social value' of a proposal – whether it promoted or improved the social, economic or environmental well-being of the relevant authority's area including that of individual service users. It could also include the relevant body's case that it would be able to deliver good value for money.
- The relevant body's case for providing or being involved in providing the relevant service(s) i.e. why it is submitting the Expression of Interest.
- Details of the relevant body's financial situation.
- The relevant body's case that they will be able to participate in any procurement exercise relating to the provision of the relevant service(s); and
- The relevant body's case that they are capable of providing or being involved in providing the relevant service(s), or are taking steps to ensure they will be in such a position ahead of the procurement exercise.

- 5.4 Whilst in many cases the relevant body will be in a position to compete in a procurement exercise at the time they submit an Expression of Interest, others will need to take steps to be in such a position. We expect this to apply in particular to small or newly formed voluntary and community organisations and local authority employees. This may, for example, include accessing support, raising finance, or gaining appropriate accreditation. We would expect authorities considering such Expressions of Interest to allow for such relevant bodies to set out the action they will take in advance of a procurement exercise to ensure they are in a position to compete (see also Section 8).
- 5.5 In relation to details of the relevant body's financial situation, this might include information to support the rest of their Expression of Interest – so for example they may have said they will invest in new equipment, office space, or an extra member of staff. They may also have said they plan to seek funding from elsewhere, and details of how much and their approach may be included here.
- 5.6 Relevant bodies submitting an Expression of Interest may propose to deliver the service in partnership with one or more other delivery bodies. These may be either other relevant bodies or non-relevant bodies, including private sector partners. So, for example, staff of the relevant authority may propose to deliver a service as a joint venture with another organisation.

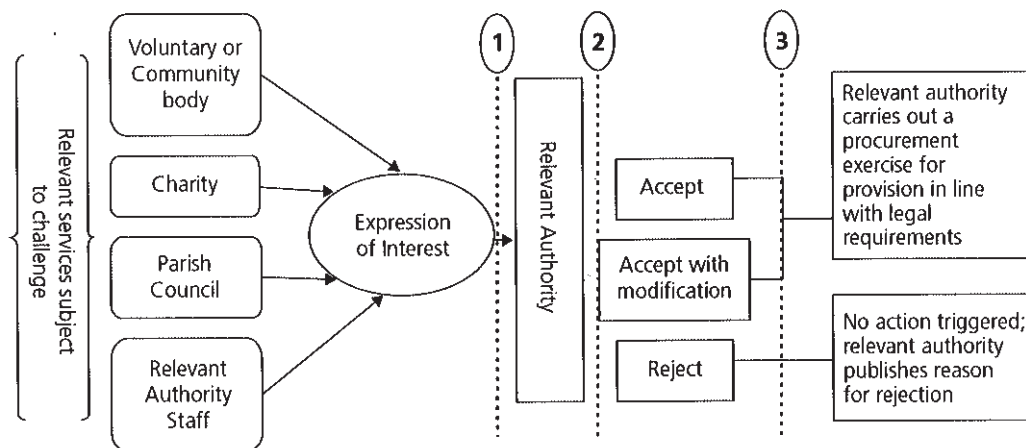
Agenda Item 6

Q7. Do you agree with the proposed information to be included in an Expression of Interest?

Q8. Is there further information you believe should be provided as part of an Expression of Interest? If yes, what else should be included?

Section 6:

Period during which a relevant authority must reach a decision on an Expression of Interest



6.1 The Community Right to Challenge provisions in the Localism Bill require a relevant authority to consider Expressions of Interest submitted by a relevant body and either accept, accept with modification or reject them. It gives a power to specify in regulations minimum and maximum periods that must elapse between the date of the relevant authority's decision to accept an Expression of Interest and the date on which it begins a procurement exercise. In establishing common periods, it will be important to acknowledge that this would need to cover a range of circumstances. There are instances where a longer period may be appropriate, for example:

- where there are multiple Expressions of Interest relating to the same service
- where the relevant authority wishes to propose a possible modification to an Expression of Interest that would allow it to accept it
- where an Expression of Interest makes proposals for radical change to the delivery of a service; or
- where services are currently delivered jointly across two or more relevant authorities.

Agenda Item 6

Section 6: Period during which a relevant authority must reach a decision on an Expression of Interest | 29

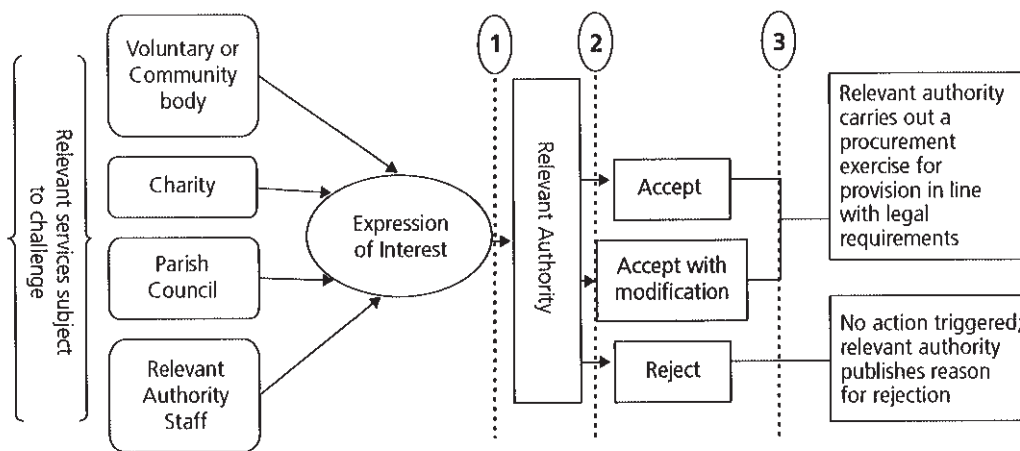
- 6.2 Where an authority specifies periods during which Expressions of Interest may be submitted we would expect the period between receiving an Expression of Interest and reaching a decision to apply from the end of that period (Section 4). This would allow the authority to consider all Expressions of Interest in a service.

**Q9. Should regulations specify a minimum period during which a relevant authority must reach a decision on an Expression of Interest?
If yes, what should this be?**

**Q10. Should regulations specify a maximum period during which a relevant authority must reach a decision on an Expression of Interest?
If yes, what should this be?**

Section 7:

When an Expression of Interest may be modified or rejected



7.1 The Community Right to Challenge provisions in the Localism Bill require that an Expression of Interest must be accepted, accepted with modification, or rejected by a relevant authority. It gives a power to specify in regulations grounds for rejecting an Expression of Interest.

Accept with modification

7.2 The option to 'accept with modification' as part of the Community Right to Challenge is included in the Localism Bill in order to allow some flexibility and maximise the number of Expressions of Interest that are accepted. Any modification must be agreed with the relevant body submitting an Expression of Interest. We envisage that this would not permit wholesale change to an Expression of Interest, but it may be appropriate for example where minor changes would allow the authority to act in accordance with the Best Value duty and accept the Expression of Interest. We do not plan to cover this issue in regulations.

Reject

7.3 The Bill states that a relevant authority may reject an Expression of Interest only on one or more of the grounds specified by the Secretary of State in regulations. We propose that the following should be grounds for rejecting an Expression of Interest:

- The relevant body is not capable of providing or being involved in providing the relevant service.
- The relevant body is not otherwise a suitable person or body to provide or be involved in providing the relevant service.
- The relevant service is excluded from the Community Right to Challenge.
- The service has been stopped or de-commissioned (i.e. is no longer a relevant service) or a decision has been taken to do this.
- The Expression of Interest is submitted outside of a period specified by the relevant authority during which it will consider Expressions of Interest for the service (see Section 4). This may apply both to services currently delivered by the relevant authority, and to those currently delivered on behalf of the authority under an existing contract (or grant agreement).
- The relevant service is already the subject of a procurement exercise relating to the provision of the relevant service (or of negotiations for a grant agreement).
- The Expression of Interest does not contain all the required information.
- The Expression of Interest is frivolous or vexatious.
- Acceptance of the Expression of Interest could mean the authority would not comply with the duty in section 3(1) of the Local Government Act 1999 (best value authorities: general duty) or accepting the Expression of Interest would mean that the service would deliver poorer value for money.
- Another Expression of Interest has been accepted. For example, if three Expressions of Interest are submitted for the same service then the authority would be able to accept the one that offered the best service and reject the other two.

7.4 It should be noted that in some of the instances listed above, it may be appropriate for the relevant authority to seek to modify an Expression of Interest with agreement of the relevant body, for example where particular information has not been completed.

Q11. Do you agree with the above listed grounds whereby an Expression of Interest may be rejected?

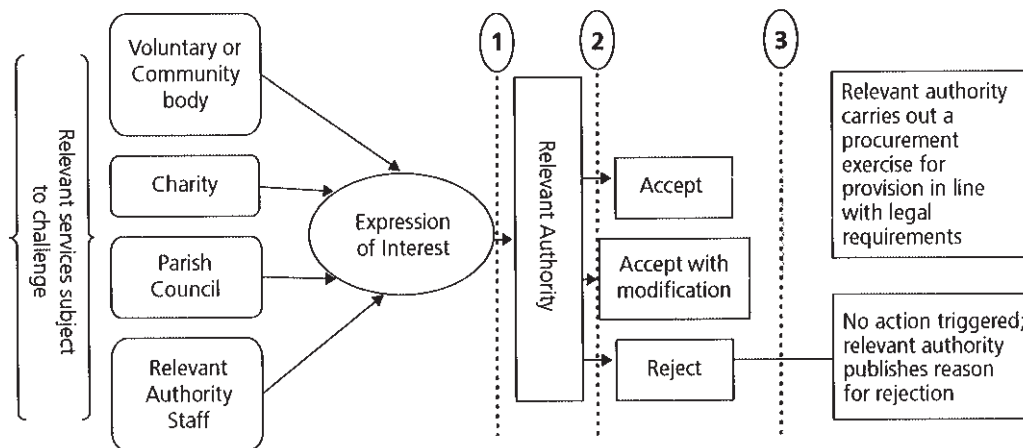
Q12. Are there any other grounds whereby relevant authorities should be able to reject an Expression of Interest?

Agenda Item 6

Section 8: Period between an Expression of Interest being accepted by a relevant authority and a procurement exercise | 33
relating to the provision of the service beginning

Section 8:

Period between an Expression of Interest being accepted by a relevant authority and a procurement exercise relating to the provision of the service beginning



- 8.1 The Community Right to Challenge provisions in the Localism Bill require a relevant authority that accepts an Expression of Interest must carry out a procurement exercise relating to provision of the service to which the Expression of Interest relates. The relevant body which has submitted an Expression an Interest would then have the opportunity to bid alongside others for the contract.
- 8.2 It gives a power to specify in regulations the minimum and maximum periods that may elapse before the relevant authority carries out a procurement exercise relating to the provision of that service on behalf of the authority. This consultation seeks views on whether a minimum and/or maximum period should be specified, and if so what should be the length of these periods. The initiation of such an exercise is understood to be when the tender is publicised; relevant authorities will need to build in time to complete the commissioning phase as part of this period.

- 8.3 We expect that in most cases the body submitting an Expression of Interest will need to satisfy the relevant authority that they already have the capacity and organisation to deliver the service they have expressed an interest in running. However, in some cases both the body that has expressed an interest, and others who were not the successful challenger but may wish to compete in the subsequent procurement exercise, will need time to make the necessary preparation to be in a position to do so. This may particularly apply to small and newer voluntary and community organisations and relevant authority employees wishing to deliver the service as a mutual.
- 8.4 A minimum period between an Expression of Interest being accepted and the start of a procurement exercise relating to provision would enable employees, where they are not the challengers to decide whether they want to bid, and to prepare themselves to do so. It would also enable newer and smaller voluntary and community bodies to prepare themselves to bid.
- 8.5 A maximum period would ensure that the procurement exercise is not delayed for an unnecessarily long time.
- 8.6 The Community Right to Challenge will not impact on the requirements relevant authorities must follow in conducting a procurement exercise relating to provision of a service. The process should be appropriate to the nature and value of the contract. This means that if the contract is for a service, or is of a value, to which the Public Contracts Regulations 2006 apply the authority must follow the detailed procedures for advertising, tendering and awarding contracts set out in those regulations. Where the service is of a nature or value not covered by the regulations (i.e. where it is listed in Part B of the regulations as being exempt, or is below the threshold of £156,000) then the authority will need to decide what sort of exercise to run, just as it will already do when contracting out a service.

Q13. Should a minimum period between an Expression of Interest being accepted and a relevant authority initiating a procurement exercise be specified in regulations? If yes, what should the minimum period be?

Q14. Should a maximum period between an Expression of Interest being accepted and a relevant authority initiating a procurement exercise be specified in regulations? If yes, what should the maximum period be?

Section 9:

Support and guidance

- 9.1 The Community Right to Challenge aims to open up delivery of services to new providers who can deliver services differently or better with space for new ideas and innovation. We are aware that relevant bodies may benefit from support to improve their skills and expertise to prepare effective expressions of interest and compete successfully in any procurement exercise which follows, in particular small and new voluntary and community sector organisations.
- 9.2 Subject to Parliamentary approval we anticipate that the Localism Bill will obtain Royal Assent in Autumn 2011, and that the Community Right to Challenge will be commenced from April 2012 at the earliest. The Bill is introducing a range of new community rights alongside the Community Right to Challenge – the Right to Buy, to Build and to develop neighbourhood plans. These also link to the Cabinet Office Rights to Provide for public sector workers to form mutuals.
- 9.3 We are considering what support measures could be made available to help people in communities, as well as local authorities, other public bodies, and private businesses understand what each right can and cannot do, how they can be used together, and what further support could be made available for groups wanting to use them.
- 9.4 The Bill also requires relevant authorities to have regard to guidance issued by the Secretary of State on the Community Right to Challenge. We would welcome views on whether there are any issues on which guidance could usefully be provided – whether or not the guidance is statutory.

Q15. What support would be most helpful?

Q16. Are there issues on which DCLG should provide guidance in relation to the Community Right to challenge?

Annex A:

Summary of consultation questions

Section 2 – Which services should be subject to challenge

- Q1. Are there specific services that should be exempted from the Community Right to Challenge? If yes, why?
- Q2. Are there any general principles that should apply in considering which services should be exempt?

Section 3 – Relevant bodies and relevant authorities

- Q3. We are minded to extend the Community Right to Challenge to apply to all Fire and Rescue Authorities. Do you agree?
- Q4. Should the current definition of relevant authority under the Community Right to Challenge be enlarged in future to apply to other bodies carrying out a function of a public nature? If yes, which bodies?

Section 4 – When a relevant authority will consider Expressions of Interest

- Q5. Should regulations specify a minimum period during which relevant authorities must consider Expressions of Interest?
- Q6. If a minimum period is specified, what should this be?

Section 5 – Information to be included in an Expression of Interest

- Q7. Do you agree with the proposed information to be included in an Expression of Interest?
- Q8. Is there further information you believe should be provided as part of an Expression of Interest? If yes, what else should be included?

Section 6 – Period for a relevant authority to reach a decision on an Expression of Interest

- Q9. Should regulations specify a minimum period during which a relevant authority must reach a decision on an Expression of Interest? If yes, what should this be?
- Q10. Should regulations specify a maximum period during which a relevant authority must reach a decision on an Expression of Interest? If yes, what should this be?

Section 7 – When an Expression of Interest may be modified or rejected

- Q11. Do you agree with the above listed grounds whereby an Expression of Interest may be rejected?
- Q12. Are there any other grounds whereby relevant authorities should be able to reject an Expression of Interest?

Section 8 – Period between accepting an Expression of Interest and initiating an exercise for the provision of a contract for that service

- Q13. Should a minimum period between an Expression of Interest being accepted and a relevant authority initiating a procurement exercise be specified in regulations? If yes, what should the minimum period be?
- Q14. Should a maximum period between an Expression of Interest being accepted and a relevant authority initiating a procurement exercise be specified in regulations? If yes, what should the maximum period be?

Section 9 – Support and guidance

- Q15. What support would be most helpful?
- Q16. Are there issues on which DCLG should provide guidance in relation to the Community Right to challenge?

Annex B:

Consultation criteria

The Government has a code of practice on consultations. The criteria below apply to all UK public consultations on the basis of a document in electronic or printed form, and will often be relevant to other sorts of consultation.

Though they have no legal force, and cannot prevail over statutory or other mandatory external requirements, the instructions below should otherwise generally be regarded as binding on UK departments and their agencies, unless Ministers conclude that exceptional circumstances require a departure.

1. Formal consultation should take place at a stage when there is scope to influence the policy outcome
2. Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible
3. Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals
4. Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach
5. Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained
6. Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation
7. Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience

The full consultation code may be viewed at:
www.bis.gov.uk/policies/better-regulation/consultation-guidance

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Agenda Item 7

REPORT TO: CABINET MEMBER PERFORMANCE & GOVERNANCE
DATE: 16th March 2011
SUBJECT: Results of the Local Area Agreement 2007-2010 Performance
WARDS AFFECTED: All
REPORT OF: Samantha Tunney, Assistant Chief Executive
CONTACT OFFICER: Ian Willman, Area Performance Coordinator Ext: 2015
**EXEMPT/
CONFIDENTIAL:** No

PURPOSE/SUMMARY:

To inform Cabinet Member Performance & Governance of Sefton's final outturn performance in relation to the Local Area Agreement 2007-2010 stretch targets.

REASON WHY DECISION REQUIRED:

There is a requirement to ensure that Cabinet Member Performance & Governance is informed of the final outturn in relation to the performance of the Local Area Agreement 2007-10.

RECOMMENDATION (S):

Cabinet Member Performance & Governance is recommended to:

- (i). Note the final performance outturn for the Local Area Agreement 2007-2010.
- (ii). Note the expected Performance Reward Grant of £3,600,738.59p.

KEY DECISION: No
FORWARD PLAN: No
IMPLEMENTATION DATE: Following expiry of the call in of the minutes of this meeting.

ALTERNATIVE OPTIONS:

N/a

Agenda Item 7

IMPLICATIONS:

Budget/Policy Framework: Performance Reward Grant is attributable pending final performance outturns.

Financial: There are no direct financial implications contained in the report, since the resources required for the achievement of all LAA targets are contained in the respective Portfolio budgets already approved by the Council.

<u>CAPITAL EXPENDITURE</u>	2009 2010 £	2010 2011 £	2011 2012 £	2012 2013 £
Gross Increase in Capital Expenditure				
Funded by:				
Sefton Capital Resources				
Specific Capital Resources				
<u>REVENUE IMPLICATIONS</u>				
Gross Increase in Revenue Expenditure				
Funded by:				
Sefton funded Resources				
Funded from External Resources				
Does the External Funding have an expiry date? Y/N	When?			
How will the service be funded post expiry?				

No

Legal:

Risk Assessment:

N/A

Asset Management:

No

CONSULTATION UNDERTAKEN/VIEWS

N/A.

CORPORATE OBJECTIVE MONITORING:

<u>Corporate Objective</u>		<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community	√		
2	Creating Safe Communities	√		
3	Jobs and Prosperity	√		
4	Improving Health and Well-Being	√		
5	Environmental Sustainability	√		
6	Creating Inclusive Communities	√		
7	Improving the Quality of Council Services and Strengthening local Democracy	√		
8	Children and Young People	√		

LIST OF BACKGROUND PAPERS RELIED UPON IN THE PREPARATION OF THIS REPORT

Sefton's LAA 2007-2010
 LAA Annual Review 2009/10 – 17th November 2009
 LAA Reward Guidance – 17th February 2009

1 BACKGROUND:

- 1.1 As Cabinet Member Performance & Governance is aware, as part of the Local Government and Public Involvement in Health Act, the Council and the Sefton Borough Partnership had a statutory duty to prepare a Local Area Agreement (LAA).
- 1.2 The LAA 2007-10 presented an opportunity to understand the challenges of the borough and those links between issues in the thematic areas, which will help improve the quality of life for the people of Sefton.
- 1.3 Originally it was agreed with the Department for Communities and Local Government (DCLG) that if all Local Area Agreement Round 3 targets, a total 29 targets in Sefton, achieved 100% of their stretch targets in 2009/10 the potential total performance reward grant would be £9,503,596.00.
- 1.4 Each of the 29 targets has a Performance Reward Grant amount attached and that is paid in full for 100% performance achievement and on a scale for performance between 60% and 100%; no Performance Reward Grant is payable for less than 60% of the stretch performance.
- 1.5 Any Performance Reward Grant achieved would be paid in two parts, one part in 2010/11 the second in 2011/12 dependent upon the availability of actual final performance outturns. Payments are made half capital and half revenue, with no further restrictions on spending.

Agenda Item 7

2 AMENDMENTS MADE BY THE COALITION GOVERNMENT:

2.1 Sefton received confirmation from DCLG that the maximum reward payable on the LAA 2007-10 would be a maximum of £4,751,798.00 which equated to 50% of the original PRG available.

2.2 Sefton was also informed that the Performance Reward Grant would now only be paid within this financial year 2010/11. Paid 50% capital and 50% revenue.

3 FINAL PERFORMANCE OUTTURNS:

3.1 Cabinet Member should be aware that six targets were deemed inoperable due to the abolition of the Key Stage 3 examinations for children.

3.2 It was agreed with Government Office North West and DCLG that a compromise payment would be received. The compromise payment would be based on the average reward monies across the whole agreement e.g. the proportion of PRG payable across the operable targets.

3.3 Annex 1 provides the Cabinet Member with the final outturn in relation to the Local Area Agreement 2007-10.

3.4 The expected PRG attained is £ £3,600,738.59p and application has been made for the payment of this sum.

4 RECOMMENDATION:

Cabinet Member Performance & Governance is recommended to:

- (i). Note the final performance outturn for the Local Area Agreement 2007-2010.
- (ii). Note the expected Performance Reward Grant of £3,600,738.59p.

LAA Indicators

Priority	Thematic Block	Partners	Indicator Reference	Regularity of Reporting	Baseline	Target 07/08	Target 08/09	Target 09/10	Final Measurement	Total % of Performance Achieved	Total PRG possible before Coalition amendments	Total PRG possible after Coalition amendments	Final outturn PRG
Percentage of children achieving point 6 levels of attainment in PSED at the end of the Foundation Stage in Sefton apart from those children living in areas within the top 30% IMD	CYP	Children's Services, VCS, Independent Providers	LAA-CYP-013	Annual	05/06 80.6%	Without Stretch 81.6% With Stretch 82.6%	Without Stretch 82% With Stretch 83.5%	Without Stretch 83% With Stretch 84%	84.7%	100%	£215,990.75	£107,995.38	£107,995.38
Percentage of children achieving point 6 levels of attainment in CLL at the end of the Foundation Stage in Sefton apart from those children living in areas within the top 30% IMD.			LAA-CYP-014	Annual	05/06 54.4%	Without Stretch 55.7% With Stretch 57.0%	Without Stretch 56.5% With Stretch 58.5%	Without Stretch 57.5% With Stretch 60.0%	63.3%	100%	£215,990.75	£107,995.38	£107,995.38
Reduction in the gap between the percentage of children achieving point 6 levels in PSED at the end of the Foundation Stage living in areas within the top 30% IMD and those children living in other areas of Sefton.			LAA-CYP-015	Annual	05/06 20.4%	Without Stretch 18.4% With Stretch 16.4%	Without Stretch 17.5% With Stretch 15.0%	Without Stretch 16.5% With Stretch 14.0%	10.6%	100%	£215,990.75	£107,995.38	£107,995.38
Reduction in the gap between the percentage of children achieving point 6 levels in CLL at the end of the Foundation Stage living in areas within the top 30% IMD and those children living in other areas of Sefton.			LAA-CYP-016	Annual	05/06 19.2%	Without Stretch 16.6% With Stretch 14.0%	Without Stretch 15.5% With Stretch 13.5%	Without Stretch 14.5% With Stretch 12.5%	14.3%	0%	£215,990.75	£107,995.38	£0.00
Percentage of 11 year old LAC achieving level 4 at Key Stage 2 in English			LAA-CYP-017	Annual	05/06 46.6%	Without Stretch 50% With Stretch 60%	Without Stretch 60% With Stretch 67%	Without Stretch 60% With Stretch 80%	50.0%	0%	£86,396.30	£43,198.15	£0.00

LAA Indicators

Priority	Thematic Block	Partners	Indicator Reference	Regularity of Reporting	Baseline	Target 07/08	Target 08/09	Target 09/10	Final Measurement	Total % of Performance Achieved	Total PRG possible before Coalition amendments	Total PRG possible after Coalition amendments	Final outcome PRG	
Percentage of 11 year old LAC achieving level 4 at Key Stage 2 in Maths	CYP	Children's Services, Connexions, NHS Sefton, Leisure Services	LAA-CYP-018	Annual	05/06 46.4%	Without Stretch 50% With Stretch 60%	Without Stretch 60% With Stretch 67%	Without Stretch 60% With Stretch 80%	49.0%	0%	£86,396.30	£43,198.15	£0.00	
Percentage of 11 year old LAC achieving level 4 at Key Stage 2 in Science			LAA-CYP-019	Annual	05/06 60%	Without Stretch 67% With Stretch 73%	Without Stretch 73% With Stretch 80%	Without Stretch 73% With Stretch 93%	37.0%	0%	£86,396.30	£43,198.15	£0.00	
Percentage of 14 year old LAC achieving level 5 at Key Stage 3 in English			LAA-CYP-020	Annual	05/06 15%							£86,396.30	£43,198.15	£0.00
Percentage of 14 year old LAC achieving level 5 at Key Stage 3 in Maths			LAA-CYP-021	Annual	05/06 10%							£86,396.30	£43,198.15	£0.00
Percentage of 14 year old LAC achieving level 5 at Key Stage 3 in Maths			LAA-CYP-022	Annual	05/06 15%							£86,396.30	£43,198.15	£0.00
Percentage of young people leaving care at aged 16 with at least 1 GCSE at grades A*-G or GNVQ equivalent			LAA-CYP-023	Annual	05/06 59%	Without Stretch 64% With Stretch 70%	Without Stretch 66% With Stretch 74%	Without Stretch 66% With Stretch 81%	54.2%	0%	£86,396.30	£43,198.15	£0.00	
Percentage of LAC in year 11 who obtained at least 5 GCSE's at grades A* to C			LAA-CYP-024	Annual	05/06 3%	Without Stretch 3% With Stretch 3%	Without Stretch 3% With Stretch 7%	Without Stretch 3% With Stretch 10%	15.0%	100%	£86,396.30	£43,198.15	£43,198.15	
Percentage of those young people who were looked after on 1st April in their 17th year who were engaged in education, training or employment audited again in their 20th year to indicate minimum drop off following previous measurement			LAA-CYP-038	Annual	05/06 44%	Without Stretch 60% With Stretch 70%	Without Stretch 65% With Stretch 75%	Without Stretch 70% With Stretch 80%	57.0%	0%	£86,396.30	£43,198.15	£0.00	

Agenda Item 7

Page 76

LAA Indicators

Priority	Thematic Block	Partners	Indicator Reference	Regularity of Reporting	Baseline	Target 07/08	Target 08/09	Target 09/10	Final Measurement	Total % of Performance Achieved	Total PRG possible before Coalition amendments	Total PRG possible after Coalition amendments	Final outturn PRG	
The percentage of LAC who missed a total of 50 or more sessions of schooling for any reason in any one school year (LAC in continuous care for 12 months)			LAA-CYP-025	Annual	05/06 10.4%	Without Stretch 7.9% With Stretch 7.7%	Without Stretch 7.7% With Stretch 7.5%	Without Stretch 7.6% With Stretch 7.3%	11.0%	0%	£86,396.30	£43,198.15	£0.00	
Percentage of 16-19 year olds not in education, employment or training	CYP	Children's Services, Connexions,	LAA-CYP-033	Quarterly	05/06 8.3%	Without Stretch 7.5% With Stretch 7.0%	Without Stretch 7.0% With Stretch 6.4%	Without Stretch 6.6% With Stretch 6.0%	6.5%	0%	£863,963.00	£431,981.50	£0.00	
The percentage of pupils in Sefton achieving level 6 or above in English at Key Stage 3, as measured by DfES performance tables.	CYP	Children's Services	LAA-CYP-030	Annual	05/06 35%						£285,107.79	£142,553.89	£0.00	
The percentage of pupils in Sefton achieving level 6 or above in Maths at Key Stage 3, as measured by DfES performance tables.			LAA-CYP-031	Annual	05/06 62%							£285,107.79	£142,553.89	£0.00
The percentage of pupils in Sefton achieving level 6 or above in Science at Key Stage 3, as measured by DfES performance tables.			LAA-CYP-032	Annual	05/06 44%							£293,747.42	£146,873.71	£0.00
The percentage of residents who strongly agree or agree that their neighbourhood is a place where people from different backgrounds get on well together, as measured by the Sefton Crime and Disorder Reduction Partnership Community Safety.	SSCP	Sefton CVS, Sefton Equalities Partnership	LAA-SSC-027	Quarterly	05/06 62.8%	Without Stretch 62.8% With Stretch 64.8%	Without Stretch 62.8% With Stretch 66.8%	Without Stretch 62.8% With Stretch 67.8%	65.82%	60%	£863,963.00	£431,981.50	£260,916.81	

LAA Indicators

Priority	Thematic Block	Partners	Indicator Reference	Regularity of Reporting	Baseline	Target 07/08	Target 08/09	Target 09/10	Final Measurement	Total % of Performance Achieved	Total PRG possible before Coalition amendments	Total PRG possible after Coalition amendments	Final outcome PRG
Percentage of people recorded as or reporting that they have engaged in formal volunteering on an average of at least two hours per week over the past year, as recorded by the Sefton Crime and Disorder Reduction Partnership Community Safety Survey.	SSCP	Sefton CVS, Sefton Equalities Partnership	LAA-SSC-028	Quarterly	05/06 9.4%	Without Stretch 9.4% With Stretch 9.7%	Without Stretch 9.4% With Stretch 10.5%	Without Stretch 9.4% With Stretch 11.9%	12.2%	100%	£863,963.00	£431,981.50	£431,981.50
The percentage of people who are well informed/fairly informed about what is done to tackle anti-social behaviour in their local area as measured by Sefton Crime and Disorder Reduction Partnership Community Safety Survey	SSCP	Community Safety, DAT, NHS Sefton, Merseyside Fire & Rescue, Probation, Merseytravel, Sefton CVS	LAA-SSC-021	Quarterly	05/06 32.9%	Without Stretch 32.9% With Stretch 34.9%	Without Stretch 32.9% With Stretch 37.9%	Without Stretch 32.9% With Stretch 40.9%	43.58%	100%	£863,963.00	£431,981.50	£431,981.50
			LAA-SSC-017	Annual	05/06 44%	Without Stretch 35.7% With Stretch 32.7%	Without Stretch 35.7% With Stretch 30.7%	Without Stretch 35.7% With Stretch 28.7%	20.98%	100%	£863,963.00	£431,981.50	£431,981.50
The aggregate percentage of respondents who think selling or using drugs is a very big/fairly big problem, as measured by the Sefton Crime and Disorder Reduction Partnership Community Safety Survey													
Reduce the number of homes which fall below a SAP rating of 35 as a measure of high fuel poverty risk to vulnerable households	HCOP	Technical Services, Members of the Affordable Warmth Partnership	LAA-HCOP-031	Annual	05/06 10873	Without Stretch 10710 With Stretch 10655	Without Stretch 10549 With Stretch 10442	Without Stretch 10391 With Stretch 10233	92170	100%	£863,963.00	£431,981.50	£431,981.50
Percentage of schools achieving the National Healthy Schools Standard.			LAA-HCOP-003	Annual	05/06 3%	Without Stretch 58% With Stretch 68%	Without Stretch 72% With Stretch 81%	Without Stretch 75% With Stretch 97%	98.0%	100%	£483,819.28	£241,909.64	£241,909.64

LAA Indicators

Priority	Thematic Block	Partners	Indicator Reference	Regularity of Reporting	Baseline	Target 07/08	Target 08/09	Target 09/10	Final Measurement	Total % of Performance Achieved	Total PRG possible before Coalition amendments	Total PRG possible after Coalition amendments	Final outturn PRG
Percentage of Year 6 pupils who usually eat five or more portions of fruit and vegetables on a school day.	HCOP	Children's services, NHS Sefton	LAA-HCOP-004	Annual	05/06 14%	Without Stretch 15% With Stretch 16%	Without Stretch 16% With Stretch 19%	Without Stretch 18% With Stretch 22%	37.0%	100%	£95,035.93	£47,517.96	£47,517.96
Percentage of Year 6 pupils who in the previous week, exercised three times or more, for at least an hour during which they had to breathe harder and faster.			LAA-HCOP-005	Annual	05/06 66%	Without Stretch 67% With Stretch 69%	Without Stretch 69% With Stretch 73%	Without Stretch 70% With Stretch 75%	77.0%	100%	£95,035.93	£47,517.96	£47,517.96
Percentage of Year 10 pupils who usually eat five or more portions of fruit and vegetables on a school day.			LAA-HCOP-033	Annual	05/06 9%	Without Stretch 10% With Stretch 11%	Without Stretch 11% With Stretch 14%	Without Stretch 12% With Stretch 16%	21.0%	100%	£95,035.93	£47,517.97	£47,517.97
Percentage of Year 10 pupils who in the previous week, exercised three times or more, for at least an hour during which they had to breathe harder and faster.			LAA-HCOP-034	Annual	05/06 21%	Without Stretch 22% With Stretch 23%	Without Stretch 23% With Stretch 25%	Without Stretch 24% With Stretch 27%	43.0%	100%	£95,035.93	£47,517.97	£47,517.97
Number of workless residents in receipt of a working age benefit from disadvantaged groups* helped by Sefton Council into sustained employment of at least 16 hours a week or more for 13 consecutive weeks or more.	EDS	Sefton Council, Local Businesses, DWP	LAA-ED-012	Annual	05/06 110	0	0	Without Stretch 200 With Stretch 357	367	100%	£863,963.00	£431,981.50	£431,981.50
Total											£9,503,593.00	£4,751,798.00	£3,219,990.10

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Agenda Item 8

REPORT TO: Cabinet Member – Performance and Governance –

DATE: Wednesday 16th March 2011

SUBJECT: Department for Communities and Local Government -
Consultation on Code of Recommended Practice for local
authorities on Data Transparency

WARDS AFFECTED: All

REPORT OF: Samantha Tunney, Assistant Chief Executive

CONTACT OFFICER: Sue Holden, Head of Corporate Improvement, x4722
Sue Varga, Senior Corporate Performance Officer, x4602

EXEMPT/CONFIDENTIAL: No

PURPOSE/SUMMARY:

To inform the Cabinet Member of the Consultation on the Code of Recommended Practice for local authorities on Data Transparency and seek a steer on the proposed response which needs to be submitted by the 14th March 2011.

REASON WHY DECISION REQUIRED:

To enable a response to be made to the Consultation Paper.

RECOMMENDATION:

The Cabinet Member for Performance and Governance is recommended to consider the proposed Code of Recommended Practice and seek a steer on the form and content of a response and to delegate authority to the Assistant Chief Executive to finalise the response and submit it prior to the deadline for responses.

KEY DECISION: No

FORWARD PLAN: No

IMPLEMENTATION DATE: April 2011

Agenda Item 8

ALTERNATIVE OPTIONS:

N/a

IMPLICATIONS:**Budget/Policy Framework:****Financial:**

There are no immediate financial implications arising from this report. Further reports will identify specific financial implications as necessary.

<u>CAPITAL EXPENDITURE</u>	2009/ 2010 £	2010/ 2011 £	2011/ 2012 £	2012/ 2013 £
Gross Increase in Capital Expenditure				
Funded by:				
Sefton Capital Resources				
Specific Capital Resources				
<u>REVENUE IMPLICATIONS</u>				
Gross Increase in Revenue Expenditure				
Funded by:				
Sefton funded Resources				
Funded from External Resources				
Does the External Funding have an expiry date? Y/N	When?			
How will the service be funded post expiry?				

Legal: Not applicable

Risk Assessment: Not applicable

Asset Management: Not applicable

CONSULTATION UNDERTAKEN/VIEWS

DCLG has asked for views about the proposed code of recommended practice for local authorities on data transparency by 14th March 2011.

Views were sought from Finance and Information Services, Personnel and Chief Executives Departments and the Cabinet Member for Performance and Governance

Agenda Item 8

CORPORATE OBJECTIVE MONITORING:

<u>Corporate Objective</u>		<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		√	
2	Creating Safe Communities		√	
3	Jobs and Prosperity		√	
4	Improving Health and Well-Being		√	
5	Environmental Sustainability		√	
6	Creating Inclusive Communities		√	
7	Improving the Quality of Council Services and Strengthening local Democracy	√		
8	Children and Young People		√	

LIST OF BACKGROUND PAPERS RELIED UPON IN THE PREPARATION OF THIS REPORT

Code of Recommended Practice for Local Authorities on Data Transparency
Department for Communities and Local Government (February 2011)

Agenda Item 8

1. Background

- 1.1 The Secretary of State for Communities and Local Government wrote to local authorities in June 2010 committing them to publish items of spending over £500 including tenders, contracts and actual payments by January 2011. The Government also requires local authorities to publish information on salaries and contracts by this date.
- 1.2 The Coalition Government seeks greater transparency across government to enable the public to hold local government to account.
- 1.3 Sefton achieved this deadline and published on the 28th January 2011.

2. Department of Communities and Local Government's Code of Recommended Practice for local authorities on Data Transparency

- 2.1 The proposed code (Annex 1) is concerned with making data generated by authorities available and accessible to the public. It is intended to set out the requirement to publish data and minimum expectations and considerations. (Consultation ends 14 March 2011)
- 2.2 The proposed code is intended to provide a high level but formal statutory basis to the local transparency agenda, support current sector standards and complement publication and disclosure requirements under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.
- 2.3 Sefton's response (Annex 2 to be inserted later) has been compiled from responses received from colleagues from Corporate Services and Chief Executives Departments. The consultation is based on the following questions:

Question 1: Does the proposed Code and the principles contained within it help to create the conditions whereby local people will be able to hold local authorities to account?

Question 2: The Government believes it is essential local people know how much funding is directed towards the voluntary and community groups and wants to increase local accountability on such spending decisions and the transfer of services to this sector. Are there additional, existing data sets that should be specified to increase transparency in this area?

Question 3: Does the proposed Code sufficiently support the publication and reuse of public data?

Question 4: Do you believe all the bodies covered in paragraph 3 of the proposed Code should be included?

Question 5: The Government's preference is for a threshold of £58,200 to apply to disclosure of senior salaries in local authorities. This is intended to increase accountability and ensure salaries are consistent with level of responsibility. Would a 'function test' such as that used in Audit and Account Regulations in 2009 be better e.g. "a person who has responsibility

for the management of the relevant body to the extent that the person has power to direct or control the major activities of the body (in particular activities involving the expenditure of money), whether solely or collectively with other persons”? Or a definition based on legal definitions e.g. the salaries of the head of paid staff, statutory chief officers, non-statutory chief officers and deputy chief officers, as defined in the Local Government and Housing Act 1989?

3. Progress

- 3.1 Due to the tight deadline, a draft response to the Code of Practice has been shared with the Cabinet Member Performance and Governance and the Opposition Spokespersons to ascertain their views and seek approval. A draft response can be found at Annex 2 (to be inserted later).

4. Recommendations

The Cabinet Member for Performance and Governance is recommended to consider the proposed Code of Recommended Practice and seek a steer on the form and content of a response and to delegate authority to the Assistant Chief Executive to finalise the response and submit it prior to the deadline for responses.

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Code of recommended practice for local authorities on data transparency

Consultation

Agenda Item 8



Code of recommended practice for local
authorities on data transparency

Consultation

Agenda Item 8

Department for Communities and Local Government
Eland House
Bressenden Place
London
SW1E 5DU
Telephone: 030 3444 0000
Website: www.communities.gov.uk

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Agenda Item 8

Consultation on a code of recommended practice for local authorities on data transparency

Introduction

1. The Government is consulting on a new Code of Recommended Practice for local authorities on the publication of data ('the proposed Code'). The proposed Code is concerned with making data generated by authorities available and accessible to the public. It is intended to set out the requirement to publish data and minimum expectations and considerations. A draft of the proposed Code is attached and comments are welcomed.

Why we are consulting?

2. The Government wants to place more power into people's hands to increase transparency by seeing how their money is spent. For democratic accountability to increase, local people need to be able to hold local authorities to account over how their council tax is spent and the decisions that are made on their behalf.
Transparency through publication of open and reusable data should act as the trigger enabling local tax payers to see how local authorities are using public money. It also shines a spotlight on waste, establishing greater accountability and efficiency, open up new markets and improves access for small and local businesses and the voluntary sector.
3. Transparency is the foundation of this accountability. If people are to play a bigger role in society, they need to have the tools and information to enable them to do so.
4. The Coalition Programme for Government committed to extending transparency to every area of public life. The Secretary of State for Communities and Local Government wrote to all local authorities in England on 4 June 2010 expressing his expectations that they publish items of spend over £500 as well as publishing invitations to tender and final contracts on projects over £500 from January 2011.

The Secretary of State also challenged them to go further by giving easy open access to data on salaries, councillor expenses, financial position, performance data, licensing applications, transport information and hygiene reports for food outlets.

5. The Secretary of State wishes to strengthen this expectation further by issuing a statutory Code of Recommended Practice in exercise of his powers under section 2 of the Local Government, Land and Planning Act 1980. This section permits the Secretary of State to issue a Code of Recommended Practice as to the publication of information by local authorities about the discharge of their functions and other related matters.

What are we proposing?

6. This proposed Code is intended to provide a high level but formal statutory basis to the local transparency agenda, support current sector standards and complement publication and disclosure requirements under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 (SI 2004/3391). It is for local authorities working with others, to determine detailed implementation arrangements.
7. Comments are invited on the draft Code. In particular:
 - Does the proposed Code and the principles contained within it help to create the conditions whereby local people will be able to hold local authorities to account?
 - The Government believes it is essential local people know how much funding is directed towards the voluntary and community groups and wants to increase local accountability on such spending decisions and the transfer of services to this sector. Are there additional, existing data sets that should be specified to increase transparency in this area?
 - Does the proposed Code sufficiently support the publication and reuse of public data?
 - Do you believe all the bodies covered in paragraph 3 of the proposed Code should be included?
 - The Government's preference is for a threshold of £58,200 to apply to disclosure of senior salaries in local authorities. This is intended to increase accountability

Agenda Item 8

and ensure salaries are consistent with level of responsibility. Would a 'function test' such as that used in Audit and Account Regulations in 2009 be better e.g. "a person who has responsibility for the management of the relevant body to the extent that the person has power to direct or control the major activities of the body (in particular activities involving the expenditure of money), whether solely or collectively with other persons"? Or a definition based on legal definitions e.g. the salaries of the head of paid staff, statutory chief officers, non-statutory chief officers and deputy chief officers, as defined in the Local Government and Housing Act 1989?

Who are we consulting?

8. We would welcome comments from any organisations affected by this proposed Code and any others with an interest in open public data. This document is available on the Department for Communities and Local Government website (www.communities.gov.uk) and we will be drawing it to the attention of all principal councils in England. It is open to all to make representations on the proposed code, which will carefully be considered.

How to respond

9. Your response must be received by 14 March 2011. We will be running a forum at www.communities.gov.uk/forums/ or comments may be sent by email to: transparencycode@communities.gsi.gov.uk

Responses may also be returned to:

Stuart Macleod

The Department for Communities and Local Government

Zone 3/J4

Eland house

Bressenden Place

London SW1E 5DU

10. Please title your response 'Response to Transparency Code consultation'.

11. It would be helpful if you could make clear in your response whether you represent an organisation or group, and in what capacity you are responding.

What will happen next?

12. The Department will take account of the responses received to this consultation. A summary of the responses and the final Code will be published at the same time.

Publication of responses – confidentiality and data protection

13. Information provided in response to this consultation, including personal information, may be published, or disclosed in accordance with the access to information regimes (These are primarily the Freedom of Information Act 2000, the Data Protection Act 1988 and the Environmental Information Regulations 2004).

14. If you want any information you provide 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.

15. 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.

16. 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.

Revising the proposed Code

17. The Government expects that from January 2011, all English local authorities will have started to publish the data on £500 expenditure, contracts, tenders and senior

Agenda Item 8

salaries. The local transparency agenda is an evolving one, not least as new standards, expectation and technologies develop. The Secretary of State therefore intends to review the content and scope of the Code within 18 months to account for experience and improved best practice.

Annex 1: Draft code of recommended practice for local authorities on data transparency

Introduction and application

1. This Code is issued by the Secretary of State for the Department of Communities and Local Government in exercise of his powers under section 2 of the Local Government, Planning and Land Act 1980 to issue a Code of Recommended Practice (The Code) as to the publication of information by local authorities about the discharge of their functions and other matters which he considers to be related.
2. The Code applies in England only.

Definitions

3. In this Code:

“the Act” means the Local Government, Planning and Land Act 1980;

“local authority’ means:

- a county council;
- a district council;
- a parish council;
- a parish meeting of a parish which does not have a separate parish council;
- a London borough council;
- the Common Council of the City of London;
- the Council of the Isles of Scilly;
- a National Park authority for a National Park in England;
- the Broads Authority;
- the Greater London Authority so far as it exercises its functions through the Mayor;
- the London Fire and Emergency Planning Authority;
- Transport for London;
- the London Development Agency;

Agenda Item 8

- a fire and rescue authority (constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies, and a metropolitan county fire and rescue authority);
- a police authority, meaning:
 - (a) a police authority established under section 3 of the Police Act 1996;
 - (b) the Metropolitan Police Authority;
- a joint authority established by Part IV of the Local Government Act 1985 (fire and rescue services and transport);
- joint waste authorities, i.e. an authority established for an area in England by an order under section 207 of the Local Government and Public Involvement in Health Act 2007;
- an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009;
- a combined authority established under section 103 of that Act;
- waste disposal authorities, i.e. an authority established under section 10 of the Local Government Act 1985;
- an Integrated Transport Authority for an integrated transport area in England.

Scope

4. Greater transparency of public bodies is at the heart of enabling the public to hold politicians and public bodies to account. Where public money is involved there is a fundamental public interest in being able to see how it is being spent. Public data should also be used to highlight inefficiency and open new markets for local business, the voluntary and community sectors and social enterprises to run services or manage public assets.
5. “Public data” therefore means the objective, factual, non-personal data on which policy decisions are based and on which public services are assessed, or which is collected or generated in the course of public service delivery. This should be the basis for publication of information on the discharge of local authority functions.

6. The Freedom of Information Act 2000 requires local authorities to have a publication scheme approved by the Information Commissioner's Office that sets out information that must be routinely published. Local authorities must comply with these requirements.

Principles

7. The following principles should underpin decisions about publication and local authorities should respond to best practice as it develops. This requires a proactive approach to review and pursue higher standards.

DEMAND-LED

8. There are growing expectations that new technologies and data should support transparency and accountability. Local authorities should not seek to pre-determine the value of their data and the level of public demand; rather they should understand what data they hold, what their communities want and then release it in a way that allows the public, developers or the media to present it in new ways that makes its meaning more apparent. It is this process that will create demand for data.
9. As a minimum, the datasets that should be released are:
 - Expenditure over £500, (including costs, supplier and transaction information). Any sole trader or body acting in a business capacity in receipt of payments of at least £500 of public money should expect such payments to be transparent.
 - Grants and payments under contract to the voluntary community and social enterprise sector should be clearly itemised and listed.
 - Senior salaries, names (with the option for individuals to refuse to consent for their name to be published) job descriptions, responsibilities, budgets and numbers of staff. "Senior salaries" is defined as being all salaries which are above £58,200 (irrespective of post), which is the Senior Civil Service minimum pay band.
 - An organisational chart of the staff structure of the local authority.
 - Councillor allowances and expenses.

Agenda Item 8

- Copies of contracts and tenders to businesses and to the voluntary community and social enterprise sector.
- Policies, performance, audits and key indicators on the authorities' fiscal and financial position
- Data of democratic running of the local authority including the constitution, election results, committee minutes, decision - making processes and records of decisions.

10. Local authorities should develop an inventory of the data that they hold and ensure it is published. As data is highlighted to the widest possible audience public demand should grow and local authorities should expect to publish more information.

11. These inventories should be registered on data.gov.uk to support a single point of access for all public data from national and local government.

OPEN

12. Information should be made easily accessible to the public for use and re-use. For most local authorities it will mean publishing data online and where possible there should be a single access page for data being published.

13. Information must be published in a format and under a licence that allows open re-use, including commercial and research activities, in order to maximise value to the public. The Open Government Licence published by the National Archive is the recommended standard. Where any copyright concerns exist with information, these should be made clear.

14. Local authority information should be, where possible, published in open and machine-readable formats. The recommended five-step journey to a fully open format is:

* Publish the available data on the web in whatever format;

** Make it available as structured data, for example in a spreadsheet rather than a .pdf document;

*** Publish it in non-proprietary format such as comma separated values (CSV);

Agenda Item 8

**** User Uniform Resource Identifiers (URIs) to define and describe your data, thereby helping users discover and explore it, and understand its meaning and context, and;

***** Using URIs, incorporate links in your data to related external sources.

15. Publication in both .pdf and .csv formats should be the minimum requirement.

16. Local authorities should have controls in place to reduce the risk of any payment fraud as a result of publishing data. A risk management approach should be used to support these open standards. Potential measures to support this are suggested at Annex A of the Code.

TIMELY

17. Data will often be of most use in its raw format. It should therefore be published as quickly as possible after it is produced. For example, expenditure should be published on a monthly or quarterly basis depending on functionality of in-house systems; organisational information should be published in line with central Government.

18. Data should be as accurate as possible at first publication. While errors may occur the publication of information should not be unduly delayed to rectify mistakes. Instead, publication and use of the data should be used to help address any imperfections and deficiencies. This concerns errors in data accuracy not errors in redacting personal data, which is covered below.

19. Where errors in data are discovered, or files are changed for other reasons (such as omissions), local authorities should publish revised information making it clear where and how there has been an amendment.

Agenda Item 8

Exclusions and exemptions

20. Local authorities must comply with the law on data protection and so must not release data if that would contravene the Data Protection Act 1998 or section 100A(2) LGA 1972. Where information would fall within one of the exemptions from disclosure under the Freedom of Information Act 2000, or falls within Schedule 12A LGA 1972 then it is in the discretion of the local authority whether or not to rely on that exemption or publish the data. However, the Government believes that local transparency can be implemented in a way that complies with the Data Protection Act.

Annex A: Anti-fraud measures

1. Local authorities should have controls in place to reduce the risk of payment fraud occurring. Typically, controls might include:

- Only accepting requests for changes to supplier standing data in writing.
- Seeking confirmation from the supplier that the requested changes are genuine, using contact details held on the vendor data file or from previous and legitimate correspondence; and not contacting the supplier via contact details provided on the letter requesting the changes.
- Ensuring that there is segregation of duties between those who authorise changes and those who make them.
- Only authorising changes when all appropriate checks have been carried out with legitimate suppliers and only making the changes when the proper authorisations to do so have been given.
- Maintaining a suitable audit trail to ensure that a history of all transactions and changes is kept.
- Producing reports of all changes made to supplier standing data and checking that the changes were valid and properly authorised before any payments are made.
- Carrying out standard checks on invoices before making any payments.
- Regularly verifying the correctness of standing data with suppliers.

Agenda Item 8

Agenda Item 9

REPORT TO: Cabinet Member – Performance and Governance

DATE: 16th March 2011

SUBJECT: Sector Self Regulation and Improvement

WARDS AFFECTED: All

REPORT OF: Samantha Tunney, Assistant Chief Executive

CONTACT OFFICER: Sue Holden, Head of Corporate Improvement, x4722
Sue Varga, Senior Corporate Performance Officer, x4602

EXEMPT/ CONFIDENTIAL: No

PURPOSE/SUMMARY:

To update the Cabinet Member for Performance and Governance on the latest publications on Sector Self Regulation and Improvement

REASON WHY DECISION REQUIRED:

To ensure that the Cabinet Member is informed of the latest thinking on Self Regulation and Improvement as it forms part of the Performance Management Framework.

RECOMMENDATION(S):

The Cabinet Member for Performance and Governance is recommended to consider the content of this report in relation to Sector Self Regulation and Improvement and put forward his views on how Sefton progresses this within a new Performance Management Framework

KEY DECISION: No

FORWARD PLAN: No

IMPLEMENTATION DATE: 2012/13

Agenda Item 9

ALTERNATIVE OPTIONS:

IMPLICATIONS:

Budget/Policy Framework:

Financial:

There are no immediate financial implications arising from this report. Further reports will identify specific financial implications as necessary.

<u>CAPITAL EXPENDITURE</u>	2009/ 2010 £	2010/ 2011 £	2011/ 2012 £	2012/ 2013 £
Gross Increase in Capital Expenditure				
Funded by:				
Sefton Capital Resources				
Specific Capital Resources				
<u>REVENUE IMPLICATIONS</u>				
Gross Increase in Revenue Expenditure				
Funded by:				
Sefton funded Resources				
Funded from External Resources				
Does the External Funding have an expiry date? Y/N	When?			
How will the service be funded post expiry?				

Legal:

Risk Assessment:

Asset Management:

CONSULTATION UNDERTAKEN/VIEWS

CORPORATE OBJECTIVE MONITORING:

<u>Corporate Objective</u>		<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		✓	
2	Creating Safe Communities		✓	
3	Jobs and Prosperity		✓	
4	Improving Health and Well-Being		✓	
5	Environmental Sustainability		✓	
6	Creating Inclusive Communities		✓	
7	Improving the Quality of Council Services and Strengthening local Democracy		✓	
8	Children and Young People		✓	

LIST OF BACKGROUND PAPERS RELIED UPON IN THE PREPARATION OF THIS REPORT

Local Government Group: Sector Self-Regulation and Improvement (Consultation October 2010)
 Local Government Group: Taking the Lead, Self-Regulation and Improvement in Local Government (response to consultation February 2011)
 The Audit and Inspection of local authorities, memorandum from the Department for Communities and Local Government (February 2011)

Agenda Item 9

1. Background

- 1.1 On 25 June 2010, the Government instructed the Audit Commission and five other inspectorates to stop Comprehensive Area Assessments. On 13 August 2010, the Government announced plans to disband the Audit Commission. The Government suggests that these decisions are aimed at shifting power away from central government to councils and communities.
- 1.2 As the government dismantled the current framework for assessing and inspecting councils, the Local Government (LG) Group published a consultation paper which Sefton replied to in November 2010 (Minute 22, 3rd November 2010). Following the consultation, the LG Group has published '*Taking the Lead: self regulation and improvement in local government*'.
- 1.3 The Coalition Government is proposing a first consultation on the details of a new audit framework this is planned for early in 2011, and the Government envisages that it may subsequently publish a draft Bill for pre-legislative scrutiny, ahead of the final introduction of legislation to Parliament. Following such consultation and scrutiny it is the Government's intention to introduce the necessary legislation at the earliest opportunity.

2. Sector Self Regulation

- 2.1 The Council responded to the consultation paper on Sector Self Regulation in November 2010. Overall the Council agreed with the principles but made several suggestions where changes should be made to improve Self Regulation.
- 2.2 From the feedback received from 120 individual councils and over 200 replying through Regional Improvement and Efficiency Partnerships, the LG Group has published '*Taking the lead; self regulation and improvement in local government*' which can be found at Annex 1.
- 2.3 '*Taking the Lead*' summarises the key messages from the consultation responses as follows:
 - Councils agreed with the underlying principles proposed, that councils are responsible for their own performance, that stronger accountability to local people drives through further improvement and that councils have a collective responsibility for performance in the sector as a whole.
 - Respondents also recognised that there are two key areas where the sector needs to work together – developing an ability to compare key performance information and supporting councils that need help.

- There are clear expectations from government that the scaling back of inspection also requires the sector to step up and ensure we are providing some light touch self-assurance and more importantly, support where required as early as possible.
- The core tools the LG Group are making available will be free at the point of use and paid for by councils through the RSG top slice. The more use the sector makes of them the more useful they will be both for individual councils and the sector overall. We will also ensure through brokering and market making that the services councils wish to see developed are made available via the market.
- Respondents felt that safeguarding inspections of services to vulnerable children and adults should continue where they are needed – but that there was scope for greater peer challenge in these areas and for inspection to be more proportionate and focussed on outcomes not process. This view aligns with recent government proposals to cease the annual assessments of all children’s and adults services by Ofsted and CQC respectively.
- Councils felt scrutiny had a valuable contribution to make to performance improvement and that any approach should look beyond councils’ own services to the wider outcomes being achieved.

2.4 ‘Taking the Lead’ identifies the key roles in Sector Self Regulation and Improvement, local authorities can choose which fits in with their local regulation and improvement frameworks:

Local people and communities will hold councils to account by:

- participating in council consultation exercises
- utilising online expenditure information
- utilising published performance information
- attendance and participation in face-to-face and online opportunities to influence the council
- participation in any council self-assessment/scrutiny activities
- challenging elected members/ward councillors, and
- through local elections.

Councils will:

- be responsible for their own performance
 - build strong performance management systems across the council and local partnership
 - share and compare key performance data as appropriate
 - take advantage of, as appropriate, LG Group’s support
 - offer peer support – and assimilate learning
- be accountable to local people and communities
 - engage local people in priority setting, etc
 - make performance information publicly available in ways that local people can understand and use.

The LG Group will:

- continue to lobby for further reductions in assessment, inspection and reporting

Agenda Item 9

- provide tools for councils to use to strengthen engagement, accountability and performance improvement (see paragraph 3)
- liaise with councils and offer support to those facing challenges
- maintain an overview of the performance of the sector.

Inspectorates will:

- provide external challenge for high-risk areas such as adult and child safeguarding – but reforming their current approach so that it is more risk-based and proportionate
- share concerns about poor performance with the sector to enable improvement support to be offered in advance of any further inspection
- coordinate inspection plans to minimise the burden on individual councils.

Government will:

- minimise their data collection and reporting requirements on councils
- allow the sector to deal with any performance issues facing any particular council before considering any form of intervention.

3. Knowledge Hub

3.1 The LG Group is launching the Knowledge Hub in April 2011. The hub will build on the current community of practice platform, to support networking, collaboration and knowledge sharing. The Hub is set to become the definitive online environment for local government to produce and capture its own knowledge. It will offer a suite of free online tools and services to help councils innovate and improve together.

3.2 The vision for the Knowledge Hub is to create an environment that will support greater knowledge sharing and join up conversations, data sets and information sources throughout local government. The Knowledge Hub will:

- be owned and driven by the sector with limited mediation from national bodies
- encourage innovation and the use of new media tools and techniques.

It has three strategic challenges:

- to bring about a cultural change that will make it easier for knowledge sharing and collaboration to happen
- provide the technology solution
- give the leadership and ownership of the Knowledge Hub to local government.

3.3 The Knowledge Hub will bring together data, benchmarking, conversations and sources of support from across public services to turn knowledge into practice. Information about innovation and good practice from any number of sources to help the sector as a whole can be shared.

- 3.4 Users will be able to make connections, share expertise and receive support from a wide network of trusted peers. It will share and bring in information from social media sources such as Twitter and blogs, and make it much easier for councils to use open and linked data for efficiency and improvement.
- 3.5 The LG Group are encouraging as many local authorities to be involved in the testing of the Hub for more information
www.local.gov.uk/knowledgehub.

4. Audit and Inspection

- 4.1 The Department for Communities and Local Government have published a memorandum 'Audit and Inspection of Local Authorities'. (Annex 2) This outlines how the Government is taking forward the establishment of a new more localist audit regime for local public bodies which includes the underlying principles on which the Government believes any such requirement should be based. The Government will be seeking views on the proposals.
- Councils and local health bodies - will continue to be subject to robust and efficient auditing. Any new regime will provide full and appropriate accountability, ensuring that local authorities are effectively accountable to local communities for their spending decisions. Local audits would thus continue to have the wide scope of public audit, covering the audit of financial statements, regularity, propriety, and value for money.
 - The Government intends to move the work of the Audit Commission's in-house practice into the private sector. It will put in place new arrangements, with stringent safeguards to ensure independence, for councils to appoint their auditors, and for the appointment of auditors to local health bodies.

For the future, the Government envisages that:

- the National Audit Office, would have oversight of auditing standards;
 - the professional accountancy bodies, would maintain a register of firms and auditors that are eligible to undertake local public audit engagements; and
 - quality assurance and monitoring of audits, would be undertaken by the supervisory bodies and the Council's Audit Inspection Unit.
- The Audit Commission's inspection activities will stop. In future, any central inspection will be focused on the most vulnerable, to help maintain high standards in children's services and adult social care. Intervention will focus on cases of serious risk or failure. The Commission's National Fraud Initiative should continue.

Agenda Item 9

- The Audit Commission's research activities, including its value for money studies, will cease. The National Audit Office's value for money studies will be able, to cover activities of local bodies.

4.2 Subject to consultation and Parliamentary approval, the proposed new audit regime will consist of:

- **Regulation** – the Government expects regulation, monitoring and quality control to be undertaken.
- **Commissioning** – appointed by local bodies from those licensed in accordance with regulatory regime
- **Provision** – private sector commercial firms

4.3 The Government expects that the scope of audit will cover:

- **Regularity and propriety** – compliance with legal requirements and control mechanisms
- **Financial statements** – accounting statements give a true and fair view of the financial position and of income and expenditure
- **Value for money** – effective arrangements to secure economy, efficiency and effectiveness
- **Financial resilience** – any risks to the future financial sustainability and whether mitigation action taken.

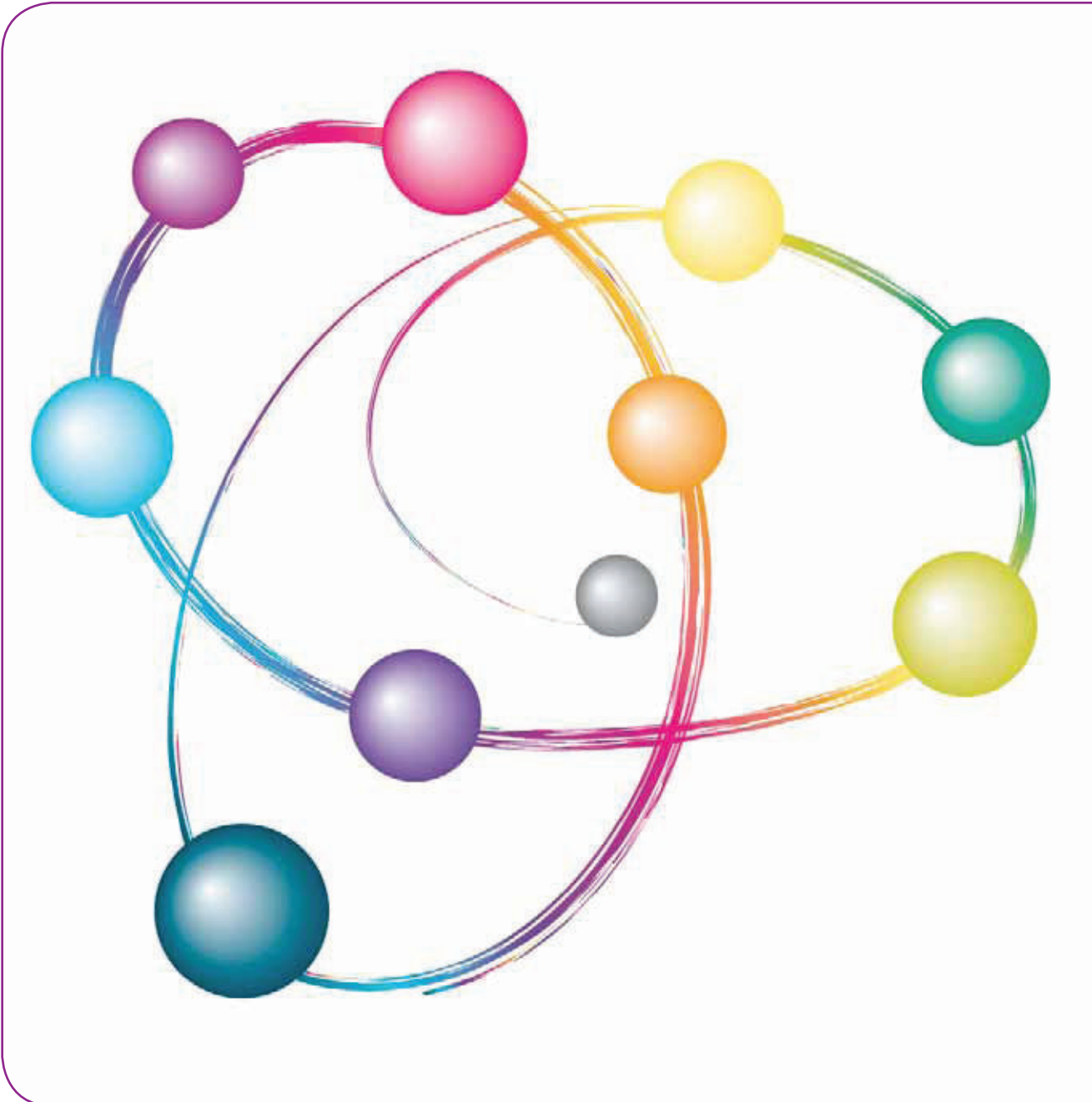
4.4 Auditors would still consider matters in the public interest through public interest reports.

5. Conclusions

5.1 The attached papers give early indications of the level of self regulation expected from Councils to ensure that accountability, transparency and value for money is achieved. Whilst it is being proposed by Government that it will be self regulation a first consultation on the details of a new audit framework is planned for early in 2011, and the Government envisages that it may subsequently publish a draft Bill for pre-legislative scrutiny, ahead of the final introduction of legislation to Parliament. Following such consultation and scrutiny it is the Government's intention to introduce the necessary legislation at the earliest opportunity.

6. Recommendations

The Cabinet Member for Performance and Governance is recommended to consider the content of this report in relation to Sector Self Regulation and Improvement and put forward his views on how Sefton progresses this within a new Performance Management Framework



Taking the lead:

self-regulation and improvement in local government

Agenda Item 9

Contents

Foreword	3
Background	5
Role of individual authorities	6
Role of Local Government Group	8
Local accountability tools	9
Peer challenge	10
Peer support	11
Knowledge Hub	12
Data and transparency	13
Leadership support	14
Learning and support networks	15
LG Group Improvement Programme Board	16
Role of audit and inspection	17
Role of central government	18
Next steps	19

Foreword



I have been greatly pleased by the number and quality of responses we have received to the consultation on a new approach to sector self-

regulation and improvement. The response rate was one of the best there has been to a Local Government Group consultation with 120 individual councils responding and almost another 200 councils responding through their Regional Improvement and Efficiency Partnerships (RIEPs) and other bodies.

Councils agreed with the underlying principles we proposed – that councils are responsible for their own performance, that stronger accountability to local people drives further improvement, and that councils have a collective responsibility for performance in the sector as a whole.

There was also agreement that the role of the LG Group should be to support councils by providing tools like peer challenge. Respondents also recognised that there are two key areas where the sector needs to work together – developing an ability to compare key performance information and supporting councils that need help.

But respondents were also clear that any tools developed nationally should not be imposed but made available for councils to use them as and when required. This has always been our intention but as the national voice for local government our role means that we want to encourage the sector to make use of these tools as widely as possible.

There are clear expectations from government that the scaling back of inspection also requires the sector to step up and ensure we are providing some light touch self-assurance and more importantly, support where required as early as possible.

The core tools we are making available will be free at the point of use and paid for by councils through the RSG top slice. The more use the sector makes of them the more useful they will be both for individual councils and the sector overall. We will also ensure through brokering and market making that the services councils wish to see developed are made available via the market.

On the specific question we asked about inspection, respondents felt that safeguarding inspections of services to vulnerable children and adults should continue where they are needed – but that there was scope for greater peer challenge in these areas and for inspection to be more proportionate and focussed on outcomes not process. This view aligns with recent government proposals to cease the annual assessments of all children's and adults services by Ofsted and CQC respectively.

Agenda Item 9

Councils also felt scrutiny had a valuable contribution to make to performance improvement and that any approach should look beyond councils' own services to the wider outcomes being achieved. Both these points are reflected in the detailed proposals we will implement in 2011/12.

Finally, there was a strong message that councils want to continue to work with us in developing this approach and some of the specific tools that underpin it. In the next section we set out our overarching proposal for how sector-led improvement should be taken forward. We are determined that it is very light touch. It will focus on sharing good practice and an ability to access peer support. The LG Group will maintain an overview of the performance of the sector in order to identify potential performance challenges and opportunities. However, we will seek to achieve this without creating any additional burdens for individual authorities.



Cllr David Parsons CBE
Chairman
LG Group Improvement Programme
Board

Background

Our campaign to reduce the burden of inspection on councils has been successful. We've seen public service agreements (PSAs), the comprehensive area assessment (CAA) and burdens such as the use of resources and organisational assessments abolished over the last few months. At the same time, the government has welcomed the stance taken by the sector to provide more emphasis on self-regulation and improvement.

Councils shouldn't be accountable to inspectors; they are accountable to their residents. Ultimately the electorate hold their councillors and councils accountable through the ballot box. In addition, day in, day out, councillors and councils are engaging with their residents to ensure that they are delivering the high-quality outcomes they expect. From holding councillor surgeries through to formal citizen panels, councils are constantly seeking ways of engaging with their communities and being held more locally accountable for what they do. Now that the burden of bureaucratic accountability and the centrally-imposed national targets have been lifted, they can concentrate even more on listening and engaging with their communities to deliver what they want.

The previous regime of inspectors and government field forces holding councils accountable through inspections, targets, and plans was estimated to cost in excess of £2 billion a year. Clearly this could not continue and the new government is seeking to promote greater local accountability through their drive for greater transparency.

In this paper we set out our approach to how self-regulation and improvement will work in practice. We are not setting out a system that has to be adopted by all parts of the sector and all local authorities (both councils and fire and rescue services). But we do expect that councils will take steps to enhance the way they are held accountable locally. In addition, councils will continue to support each other, particularly through the use of peers. The LG Group will provide approaches to help councils with each of these two objectives and also ensure that inspection does not creep back by keeping an overview of the performance of the sector and the wider regulatory regime in which they operate.

The next sections provide some more detail. The roles and suggestions are not meant to be prescriptive. Choose which ones you wish to use based on what is best for your locality.

The approach set out in this paper will come into effect from April 2011.

Role of individual authorities

At the very heart of our proposals are two key principles which were overwhelmingly endorsed by our recent consultation paper.

1. Local authorities are responsible for their own performance and for leading the delivery of improved outcomes for local people in their area.
2. Local authorities are accountable to their local communities. Stronger accountability through greater transparency helps local people drive further improvement.

Councillors are elected to office with a mandate to deliver particular outcomes for their electorate. More often than not the mandate is set out in their party's manifesto where the public has a right to hold their council accountable for the delivery of these commitments.

How councils go about **strengthening local accountability** will vary from place to place. And we must not forget that councils providing local people with information and engaging with them in many different ways to hold them to account is not something new or that's not routinely done already.

But it is accepted that the lifting of some of the national burdens provides more opportunity to concentrate on the local outcomes that local people have had more of a say in. We expect that councils will continue, where appropriate, to:

- encourage feedback from their residents through a range of channels including councillors' surgeries, satisfaction surveys, complaints, comments and compliments, and mystery shopping
- make use of social media techniques to gather information
- use deliberative techniques such as citizens' juries and participatory budgeting
- consult with the public on proposals that affect them
- publish regular performance information so that the public can understand how well their council is meeting its objectives (eg an annual report)
- publish online all expenditure in line with national requirements in a way that the public can understand
- make use of the role of scrutiny to challenge and improve both council services and those of their partners
- take stock of their own performance and identify areas for improvement and of risk
- make use of opportunities to be challenged by peers
- seek and welcome support from the sector, as and when required
- develop their councillors to fulfil their role in this new environment.

Local authorities also have a **collective responsibility for the performance of the sector**, to collaborate through sharing best practice, and to actively encourage and provide both member and officer peer support. This principle was widely endorsed by the sector, although some of you felt that in the current climate providing peers for others would be harder than in the past. Over the coming year the LG Group will review, develop and implement an organisational development model for the sector to promote and/or incentivise collaboration and sharing expertise.

A key aspect of sector-led regulation and support is that the sector is willing to provide the peers to both challenge and support others. This has been a key strength of the sector in the past and is even more important in the current challenging environment. In addition, the peers themselves are provided with a learning opportunity which we know from experience they find highly rewarding, and use what they have learnt to make improvements in their own authority. Therefore we ask that you commit to continuing to offer the high-quality peers that are required as a way of helping others, but also provide learning for your own authority too.



Role of the Local Government Group

The LG Group is an integrated lobbying and improvement organisation for the sector. Through our lobbying we will continue to campaign for further devolution and for councils to have greater accountability for all public services in their locality. We will also continue to make the case for further reductions in inspection. In particular we will continue to lobby on behalf of the sector for changes to be made to the safeguarding inspection regimes and for a reduction in the burden of reporting to government.

Through our improvement work we will support councils by making available tools for the sector to use, as and when required. We will encourage councils to make use of these as there is strong evidence that they help to drive improvement and provide a means for sharing good practice around the sector so that collectively everyone can benefit.

The key tools we are making available will be **free to councils and fire and rescue services** and we will work with you over the coming months to help shape them. In the responses there was strong support for any proposals to look beyond just councils and take into account the wider area and work with partners. We have already piloted some activities which are relevant across an area as a whole and we will develop these and other tools to provide an area dimension so that you can use them in that way if you want to. Read on to see what those tools are.

1

Local accountability tools

We will work with councils to develop tools to help you focus on enhancing the way you are locally accountable to your citizens and communities. We will strengthen our online guidance to provide a package of support showing how new and existing tools can be brought together to provide regular feedback to local people.

You told us that a key area where councils would like support is to develop with the sector a new local assessment tool that helps you to work with local people, partners and communities to get a shared assessment of current performance. We will make available a web-based version, **free of charge**, which is tailored towards the differences in councils.

We will also work with a number of councils to pilot new ways of gathering information about citizens' views of the services that councils provide in order to help you continue to make improvements that are meeting the needs of citizens and users.

Working with the Centre for Public Scrutiny, we will help you make more effective use of scrutiny as a key tool for challenging performance locally. We will offer, subject to resources and the level of need identified by the sector:

- **free or subsidised** follow-up support from the Centre for Public Scrutiny to authorities where the effectiveness of member challenge to performance is identified as a weakness in a peer challenge
- **free or subsidised access** to wider governance improvement support using the Centre for Public Scrutiny's Accountability Charter and moderated self-assessment
- a programme of **free or subsidised events**, working in partnership with the Centre for Public Scrutiny, to help key local scrutiny chairs and other members develop their skills and capacity to provide effective challenge to performance.

We will also continue to make available products which it is sensible to invest in once nationally, and then provide **free of charge** to the sector such as the YouChoose online budget simulator. This encourages members of the public to consider where council budget cuts should fall, where efficiencies might be made, and where income might be generated.

Agenda Item 9

2

Peer challenge

We are making an offer to all councils to provide, **free of charge**, a peer challenge over the three year period starting in April 2011.

It will be voluntary to have a peer challenge but we know that since April 2007, almost 70 per cent of councils have had a peer challenge. We also know that during the comprehensive performance assessment (CPA) and comprehensive area assessment (CAA) era, councils that had a peer challenge improved their ratings to a greater extent than those that did not.

To deliver on such a significant commitment we need your help. We need you to make available the high-quality peers that are required, particularly leaders, chief executives and senior experts. In order to ensure a cost-effective way of delivering such a commitment we need you or your colleagues to book slots in advance over the coming three year period where you can either give up time to be a peer on a challenge or have a peer challenge.

The focus of the challenge will be worked up with each local authority individually and will be flexible to your needs. However, we expect they will all have some focus on corporate capacity and leadership – because we know these are key factors in council performance and improvement.

In addition, we will continue to offer shorter, sharper more subject-specific challenges. It will not be possible for these to be free but the price will be kept to a minimum.

For more information about peer challenge please contact:

Andy Bates
Head of Programmes

Telephone: 07919 562849
Email: andy.bates@local.gov.uk

3

Peer support

We are also offering up to **five days of free member peer support** for all councils undergoing a change of control. Experience shows that providing member peer support to a new political administration in a timely manner is welcomed and of great benefit to the council.

In addition, we will continue to provide high-quality member peers covering a wide range of areas. We are also actively expanding our peer banks to include experts from business, the voluntary sector and other parts of the public sector including, where wanted by councils, civil servants.



Agenda Item 9



Knowledge Hub

We know that councils want to learn from each other but find it difficult to find the time or find the right information. Therefore we are investing on behalf of the sector in a new web-based service that will create a single window to improvement in local government.

It will use Web 2.0 technology and services, and build upon the principles of the current Communities of Practice platform to support networking, collaboration, knowledge sharing and innovation.

It will bring people together in one place online to share ideas, knowledge and information. Users will be able to find peers and experts who share their interests, to help each other and develop how they work. It will be a much more coordinated and dynamic way of using social media.

The Knowledge Hub will launch by April and be fully operational by September 2011. It will be a **free service for the sector**. It will provide “money supermarket” style capability where improvement services can be compared in terms of customer experience and/or range of costs.

5

Data and transparency

There is a clear demand amongst councillors and officers to be able to compare performance with other councils and areas – because it helps you to understand your own information and can act as a spur to increase productivity and optimise outcomes.

Therefore, we are creating a **free of charge** place within the Knowledge Hub for individual councils to lodge and access data in an open source environment to help you to understand your performance and productivity. LG Group Inform will be a new service providing:

- easy access to contextual data of known quality such as demographic and other socio-economic information
- help in getting under the skin of council and service productivity
- an online means to share experience and understanding and find out about best practice
- access to analytic expertise in support
- the creation of individual and tailored council ‘dashboards’ or agreed sets of data to present relevant data locally.

For councils who want the service, it will also provide a facility and structure to share and compare key data for selective, intelligent

comparison with similar (or contrasting) councils.

We suggest that this would have a small core of agreed metrics around cost efficiency and productivity, outcome and achievement, and citizen satisfaction, but with the service offering the ability to go beneath these measures.

Once fully tested and assured by the steering groups from the sector, we will ask all councils to place their data – such as government data returns on performance and cost – on the Knowledge Hub so that it is open to all users. We believe that you should only need to submit data once and in the most efficient way. If you commission benchmarking clubs other than those provided by the LG Group we ask that the data is placed on the Hub and drawn from it by those clubs so that all local government performance, outcome, resident survey and cost data is open source to the public. This will create an effective and value for money means for local government to reach the highest standards of transparency in the public sector.

Agenda Item 9

6

Leadership support

The LG Group will continue to provide development support for political and managerial leaders.

Our Leadership Academy and Leeds Castle programmes have provided development opportunities for hundreds of politicians. We will continue to provide leadership support for our political leaders and we will be making available **one subsidised place for every council for each of the next three years** on one of our main programmes commissioned from the market.



7

Learning and support networks

We will support networks of officers and councillors at national and sub-national levels, working with other sub-national groupings of councils and the relevant professional associations, to share good practice and to provide timely support. We will prioritise our support to areas that you have said are a priority, including children's and adult services.

We will also seek to make use of these networks to inform the wider policy and lobbying role that the LG Group plays on behalf of the sector. The LG Group is committed to sharing costs with council groupings in the interests of ensuring there is no duplication and the best use of councils' and the sector's improvement resources.

LG Group Improvement Programme Board

We all agree that service or council 'failure' damages the reputation of the sector as a whole, as well as having an impact on the lives of local people and that we have to find some way of managing this risk – but councils don't want the LG Group to become some form of sector-owned inspectorate; and we are not going to. Neither will we be able to rule out completely that no council will fall into difficulties in the future. Even the previous regime of inspection and government monitoring couldn't stop failure completely.

But the damage that can be caused by a failure in just one council can have a huge impact on the rest of the sector. For example high-profile failures in children's safeguarding have created inspection burdens and difficulties recruiting social workers for you all.

We also believe there is a risk that if we do not take greater collective responsibility for overseeing the performance of the sector, including the release of peers, then inspection and ultimately government intervention will creep back.

Therefore, the LG Group Improvement Programme Board, working with the other programme boards at the LG Group, will maintain an overview of the performance of the sector. We will ensure that this role does not create extra burdens for you.

We will need to work with you to find a light touch way to gather the wealth of information and intelligence that already exists in the sector – in political networks, through sub-national groupings and professional associations – so we are able to share good practice more effectively, to spot potential trends and to identify where things might be beginning to go wrong. We will use that intelligence as a basis for talking with individual councils about possible improvement needs and offering appropriate support. Our 'Regional Associates', expanded in number and with new roles, will coordinate this activity for the LG Group.

The LG Group will meet with the remaining regulators and government to receive information about the performance of the sector from their perspective. These meetings will provide the opportunity for local government to reassure central government that sector-led regulation and support is a much more effective way of addressing performance failures.

Role of audit and inspection

Whilst inspection has been scaled back, external audit will continue. We agree that to ensure the integrity of public spending it is necessary for financial audit to continue. We wish to ensure though that this does not become inspection by the back door.

We also remain of the view that inspection should only take place in cases where an individual council, or the sector more widely, agrees that it would be appropriate. Our belief is that often peer challenge is more appropriate. In many cases where inspection is being carried out to dig deeper into known performance issues then it would be even better if sector support was put in place.

Councils accept that inspection of safeguarding should continue for the time being. However, you are also clear that it should be more proportionate and be based on looking at outcomes rather than processes. There was also some support for unannounced rather than programmed inspections. You are keen to make more use of peer challenge and the LG Group will continue to provide support in this area.



Role of central government

Central government will retain powers to intervene but they should be used as a last resort.

Serious corporate failure is very rare in public bodies and we expect any concerns that government have to be raised with the individual local authority and the LG Group, so that sector-led support can be provided where necessary. We believe that this approach is much more preferable than the Secretary of State directing a body to carry out an inspection of an authority.

Government departments should cease to issue Improvement Notices on individual councils and work with the LG Group to support those councils.



Next steps

Self-regulation and improvement is already happening to a large degree and the approach set out builds on this but in a way that does not impose any additional burdens on councils but does reinforce the principle of collective responsibility.

We do not underestimate the challenge of this approach at a time when you are having to make significant savings and take some very difficult decisions on behalf of your communities.

We will work with you over the next few months to refine the tools that the LG Group are making available to ensure that they are what you want and can be adapted where necessary to local circumstances.

We will publish updates on each of the proposed offers over the next few months.



Agenda Item 9

Key roles in the new approach

Local people and communities will hold councils to account by:

- participating in council consultation exercises
- utilising online expenditure information
- utilising published performance information
- attendance and participation in face-to-face and online opportunities to influence the council
- participation in any council self-assessment/scrutiny activities
- challenging elected members/ward councillors, and
- through local elections.

Councils will:

- be responsible for their own performance
 - build strong performance management systems across the council and local partnership
 - share and compare key performance data as appropriate – including best practice
 - take advantage of, as appropriate, the LG Group's support offer
 - citizen engagement and accountability
 - peer challenge
 - peer support
 - offer peer support – and assimilate learning
- be accountable to local people and communities
 - engage local people in priority setting, etc
 - make performance information publicly available in ways that local people can understand and use.

The LG Group will:

- continue to lobby for further reductions in assessment, inspection and reporting
- provide tools for councils to use to strengthen engagement, accountability and performance improvement
- liaise with councils and offer support to those facing challenges
- maintain an overview of the performance of the sector.

Inspectorates will:

- provide external challenge for high-risk areas such as adult and child safeguarding – but reforming their current approach so that it is more risk-based and proportionate
- share concerns about poor performance with the sector to enable improvement support to be offered in advance of any further inspection
- coordinate inspection plans to minimise the burden on individual councils.

Government will:

- minimise their data collection and reporting requirements on councils
- allow the sector to deal with any performance issues facing any particular council before considering any form of intervention.

If you have queries or questions please contact:

Dennis Skinner
Regional Associate, National Coordination
Email: dennis.skinner@local.gov.uk

Nick Easton
Senior Policy Consultant
Email: nick.easton@local.gov.uk

Agenda Item 9

Local Government Group

Local Government House

Smith Square

London SW1P 3HZ

Telephone 020 7664 3000

Facsimile 020 7664 3030

Email info@local.gov.uk

www.local.gov.uk



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For a copy in Braille, Welsh, larger print or audio, please contact us on 020 7296 6880.

We consider requests on an individual basis.

The audit and inspection of local authorities

Memorandum from the Department for Communities and Local Government

1. Summary and introduction

- The Audit Commission was set up in 1983 to audit local authorities, to improve the quality of local audit and to promote and develop value for money studies. This role expanded over time to include audit of other organisations, such as local health bodies, and an increasing amount of inspection activity across the local government sector. In particular, from 2002 (2003 for district councils), the Commission was responsible for the system of Comprehensive Performance Assessment, which itself was replaced from April 2009 by the Comprehensive Area Assessment regime.
- Following its establishment, the Audit Commission increased the professionalism and quality of local government audit, and its in-house audit practice continues to be well-respected. However, the Commission also became overly focused on reporting to central government and supporting Whitehall oversight of local bodies
- The Government is clear that such centralised inspection and supervision is both an unnecessary burden on frontline services and is detrimental to the genuine local accountability that is essential if local services are to be efficient and meet the needs and aspirations of local communities.
- Accordingly, on 25 June 2010, the Government instructed the Audit Commission and five other inspectorates to stop Comprehensive Area Assessments. On 13 August 2010, the Government announced plans to disband the Audit Commission. These decisions are part of a fundamental shift in power away from central government to councils and communities, overturning decades of increasing central government control.
- **This memorandum outlines how the Government is taking forward the establishment of a new, more localist, audit regime for local public bodies, and the underlying principles on which the Government believes any such regime should be based.** Given the terms of reference for this inquiry, the memorandum largely addresses these issues from a local government perspective.
- As Ministers have made clear to Parliament, the Government is developing proposals for a new local audit regime with the Audit Commission, the National Audit Office, the Financial Reporting Council, local government, audit firms and other interested parties. Close involvement of the Audit Commission in this work is essential to secure an effective transition, and the Department is grateful for the Commission's constructive participation.
- The Government will be seeking views widely on the proposals, and will want to have careful regard to the Select Committee's report. A first

Agenda Item 9

consultation on the details of a new audit framework is planned for early in 2011, and the Government envisages that it may subsequently publish a draft Bill for pre-legislative scrutiny, ahead of the final introduction of legislation to Parliament. Following such consultation and scrutiny it is the Government's intention to introduce the necessary legislation at the earliest opportunity.

- As to the underlying principles, local bodies – councils and local health bodies - will continue to be subject to robust and efficient auditing that follows the established principles of public audit. Any new local audit regime will provide full and appropriate accountability, ensuring that local authorities are effectively accountable to local communities for their spending decisions. Local audits would thus continue to have the wide scope of public audit, covering the audit of financial statements, regularity, propriety, and value for money.
- The Government considers that the current arrangements for local audit, whereby a single organisation - the Audit Commission - is the regulator, commissioner and provider of local audit services are inefficient and unnecessarily centralised. Accordingly, the Government intends to move the work of the Audit Commission's in-house practice into the private sector. It will put in place new arrangements, with stringent safeguards to ensure independence, for councils to appoint their auditors, and for the appointment of auditors to local health bodies.
- For the future, the Government envisages that the National Audit Office, given its role in providing Parliament with assurance on public spending, would have oversight of auditing standards; the professional accountancy bodies, as supervisory bodies under the oversight of the Financial Reporting Council, would maintain a register of firms and auditors that are eligible to undertake local public audit engagements; and quality assurance and monitoring of audits, under the Financial Reporting Council's oversight, would be undertaken by the supervisory bodies and the Council's Audit Inspection Unit (in the case of larger local bodies) .
- The Audit Commission's inspection activities will stop. In future, any central inspection will be focused on the most vulnerable, for example to help maintain high standards in children's services and adult social care. Intervention will focus on cases of serious risk or failure. The Commission's National Fraud Initiative should continue, and this Department is in discussions with a number of bodies that have expressed an interest in taking on the Initiative. The Audit Commission's research activities, including its value for money studies, will cease. The National Audit Office's value for money studies will be able, as they can currently, to cover activities of local bodies.

2. The work of the Audit Commission

1. The Audit Commission was set up in 1983 as a self-funding, independent body to secure the audit of local authorities, promote and undertake value for money studies and to increase both the expertise of government auditors and the impact of external audit.
2. The Audit Commission's role developed under successive governments until, at the time of the last General Election, it encompassed:
 - A) **Audit** of local authorities, NHS Trusts and other local bodies in England. A full list of bodies audited by the Commission is at Annex A.
 - B) **Assessment and inspection** of the performance of councils, fire and rescue services and housing association.
 - C) **Research** (including value for money studies), on a wide range of social and financial issues.
 - D) **Assurance functions**, including data-matching through the National Fraud Initiative and grant certification on behalf of Government Departments.

3. Audit of expenditure by local public bodies

The current local audit regime

3. The Audit Commission currently combines within one body the regulation and commissioning of public audit, as well as providing auditors for 70% of local bodies. The Government is committed to strengthening democratic accountability and decentralisation of decision making. As part of that, it is committed to developing a decentralised approach to the external audit of public bodies.

The Commission as Regulator

4. As regulator of the current local audit regime, the Commission sits alongside and partially overlaps the more extensive audit regulatory regime of the Companies Act audit sector. The Government considers that having a specific regulator for the local government sector and the local health sector is inefficient and risks duplication.
5. The Government therefore believes there should be a single regulatory regime for audit, covering the private sector and the local government and local health sectors. This single regime can be more readily tailored to local accountability – in the way that the commercial sector is tailored to shareholders – rather than accountability to central government, as is the case with the Commission.
6. However, the local audit regime cannot entirely replicate the private sector regime because of the need for accountability to Parliament and Government

Agenda Item 9

and the nature of the activities required to provide those assurances. It is also necessary for the audit of public bodies to follow the principles of public audit.

The Commission as Commissioner of Services

7. The Audit Commission currently appoints all auditors of the local bodies listed in Schedule 2 of the Audit Commission Act 1998 (as amended). However, the Government believes that, in the case of elected local bodies, centralised commissioning of audit services is fundamentally inconsistent with the concept of accountability to the electorate. Under the Government's proposals, authorities would appoint their own auditors. However, the principle of auditor independence will be retained as a cornerstone of the new regime. In this respect, independence encompasses the methods of appointment of auditors, the financial relationship between auditors and audited body, discretion in the amount of work necessary, the ability to follow up recommendations, and free access to information.

The Commission as Audit Provider

8. The Audit Commission's in-house audit practice provides auditors to 70% of local public bodies, with the remaining 30% of auditors employed by accountancy firms under contract to the Commission. The Commission sets fees for auditing work on a 'post office pricing' basis, whereby all principal authorities pay the same rates, which include a surcharge of around 20% to cover the costs of the Commission's work. The direct commissioning of audit services by the local bodies should therefore reduce fees by removing the Commission's overheads.
9. The in-house audit practice is well respected and has consistently done a good job. However, the Government does not believe that there is a rationale for the audit practice - the fifth largest provider of audit services in the UK – remaining in the public sector. The Government expects that the commissioning of audit services directly, and through a genuinely competitive process will be more efficient, effective and locally accountable than the current arrangements.

The proposed new audit regime

10. Subject to consultation and Parliamentary approval, the new regime will consist of:
 - **Regulation** – The Government expects regulation, monitoring and quality control to be undertaken one or more of the accountancy professional bodies, with independent oversight provided by the Financial Reporting Council and its operating bodies. The Financial Reporting Council would have direct responsibility for certain matters: for example its Audit Inspection Unit would carry out the monitoring of the largest public interest audits. The National Audit Office would provide the necessary oversight of auditing standards, including responsibility for developing and maintaining the audit codes and supporting guidance.

Agenda Item 9

- **Commissioning** – auditors would be appointed by local bodies with appropriate stringent safeguards built into the audit framework to ensure audit independence is maintained. Competitive appointment will be from those licensed in accordance with the regulatory regime, bringing an end to centralised commissioning.
 - **Provision** - audit would be undertaken by private sector commercial firms, licensed by the regulator and appointed through a competitive process, charging commercial market rates.
11. The design principles underpinning the new local audit regime include maintaining audit standards and ensuring independence, competence and quality.
12. The Government expects that the scope of audit will cover:
- regularity and propriety – the auditor would need to be satisfied regarding compliance with legal requirements and control mechanisms
 - financial statements – the auditor would give an opinion as to the whether accounting statements give a true and fair view of the financial position and of income and expenditure
 - value for money - the auditor would need to be satisfied as to whether there have been effective arrangements to secure economy, efficiency and effectiveness
 - financial resilience – the auditor would need to be satisfied as to whether there are any risks to the future financial sustainability and whether mitigation action taken.

The scope of audit would be set out in the audit codes and supporting guidance that would be developed and maintained by the National Audit Office.

13. Auditors would still consider matters in the public interest through public interest reports. They would be able to undertake, possibly as part of a wider team, further inspections, such as corporate governance inspections, where they considered this necessary to meet their public interest responsibilities. They could also carry out such inspections if requested to do so by the audited body, one of the continuing inspectorates or the Secretary of State. More generally, auditors would be able to undertake audit-related value for money investigations, with the agreement of the body.
14. To help ensure independence, the Government envisages that councils would be able to appoint the same audit firm for a fixed number of years, but they would not be able to reappoint the same responsible individual for successive periods. The new regime would ensure that members of public could still make representations to auditors.

Agenda Item 9

15. The Government is considering very carefully how to treat parish and town councils and other small bodies under the new framework, to ensure that a proportionate approach is adopted, perhaps similar to that which applies to small companies and charities.

Consultation

16. The Government intends to consult on the detail of the new local audit framework early in 2011. It also envisages that it may publish a draft bill to allow full scrutiny of the proposed legislative framework, ahead of final introduction of legislation in Parliament.

Transferring in-house audit work to the private sector

17. The Government is working with the Commission and other partners to develop and assess a range of options for the transfer the work of the Commission's in-house audit practice to the private sector. In assessing options, it will seek to secure strong value for money for taxpayers, including local taxpayers. The Government would be happy to see a mutual set up by existing Audit Commission staff, if this proves to be appropriate and practical.

Timetable

18. The Government has stated that reforms to the local audit regime are likely to take effect from 2012/13. However, it will take account of the views expressed by the Select Committee and responses to the planned consultation on the new local audit framework and will review the implementation timetable in the light of these views.

4. Oversight and inspection of local authority performance

Background

19. Inspection and assessment have played an increasing role in the governance of public bodies, including local authorities. From April 2009, the main programme of inspection and assessment for local authorities was the Comprehensive Area Assessment, which attempted to provide an overall picture of how councils and their partners were delivering services and outcomes for local people.
20. However, inspection and assessment placed costly burdens on local service providers and made them focus on reporting to central government rather than delivering the services their citizens wanted. For this reason, the Comprehensive Area Assessment was abolished in June 2010.
21. The Government is decentralising power in many areas of local authorities' work, including education, health, and housing. In November 2010, this Department announced the end to the strategic housing inspections previously carried out by the Audit Commission. The Department of Health also announced the ending of annual performance assessments of councils under

the Care Quality Commission's current framework, while Ofsted announced, in December 2010, the phasing out of the annual children's services assessment.

Increasing local accountability

22. Local government performance has improved over a number of years, and local authorities are well placed to deliver services that local people want, independent of central control. The Government wants to free up local authorities to enable them to be innovative in the delivery of services, rather than merely seeking to raise performance against centrally established criteria to achieve good inspection results. Local authorities will have the freedom to deliver services in ways that meet local needs, and will be accountable for those services to their electorates. These principles are key elements of localism.
23. The Government is committed to increasing transparency across Whitehall and local authorities and will make data more readily available to the citizen to allow them to hold politicians and public bodies to account. The Secretary of State has called upon councils to increase transparency and openness by publishing information on senior salaries, councillor allowances and all spending over £500. These are first steps, but the Government is considering other types of data that should be more accessible, such as council minutes and papers, performance data, food hygiene reports and licensing applications. Greater transparency will help root out overspending and waste in local government.
24. A key part of the change will be putting information into the public domain in an accessible and readily comparable format so people have access to the information they need to judge the performance of their local service providers, and hold them to account. National government will still have a role to play in aggregating data of national importance, or to allow accountability to Parliament, but it is for local authorities to provide local residents with the data they need.
25. This Department is putting together the single data list of all the data that central government requires from local government. The principal aim is to reduce the burden of data collection on local government, but all of the data is being assessed to ensure that it needs to be aggregated at the national level. The exercise will provide a transparent catalogue of all data that central government collects from local government.
26. The Government is also committed to creating a new 'right to data' to empower citizens to request access to government-held datasets if they feel they need more information. The Government fully supports the work being done by local government as part of the Place Based Productivity Programme to develop effective benchmarking tools to allow citizens to compare their local council's performance against others.

Agenda Item 9

Future of inspection and the role of Inspectorates

27. Approaches to inspection and assessment of local authorities are being developed across Government in the light of the decentralisation and localism agenda. Key principles include independence from the service providers and accountability for the most vulnerable. The benefits of inspection must outweigh the costs, including those of the inspected body. Those local service inspectorates that remain must provide credible judgements for the public and have a clearly defined purpose which focuses on public protection. The sharing of information by inspectorates can help identify where service failures in one part of an authority are linked to broader questions about the authority's capacity to manage its overall corporate responsibilities effectively.
28. The Department for Education is working with Ofsted, which is making changes to its inspection arrangements to reduce costs and burdens, re-focus on key priorities and ensure they are proportionate. The statutory duty on Ofsted to publish an annual rating for children's services will be repealed as soon as a suitable legislative slot is identified. Details of future changes to safeguarding and children's social care inspection, and early years and childcare inspection reforms will be informed by the results of the reviews carried out by Professor Eileen Munro and Dame Clare Tickell. Extensive reforms to schools inspection are already underway.
29. The Department of Health has agreed a new approach to the assessment and inspection of councils. The annual assessment of councils as commissioners of adult social care has been discontinued, and the Care Quality Commission will no longer publish information about council performance. This new approach will see a shift towards more sector-led assessment, with councils taking greater responsibility for driving improvement. The Care Quality Commission will retain the ability to respond to concerns about council services by carrying out inspections. The Department of Health will continue to work with the Care Quality Commission and local government organisations to develop the detail of the new approach.

5. Research

30. The Audit Commission has undertaken research (including value for money studies) and produced national reports on a range of issues of interest to its customers. In 2008-2009 it produced twenty-three national reports including *Tougher at the Top*, about the role of local authority Chief Executives, *Well Disposed*, about how councils are responding to the challenge of reducing the amount of waste sent to landfill and *Risk and Return*, about how the collapse of banks in Iceland affected English local authorities.
31. However, local government and others outside of central Government are well-placed to decide when and where research should be undertaken. The Government expects that value for money will remain an important component of local audit. The National Audit Office, using its existing powers, will be able, when reporting to Parliament on the activities of central government

departments, to directly examine the impact of policies administered by local bodies. This will contribute to parliamentary accountability, as well as providing useful insights for local communities.

32. It will also be possible for an auditor to undertake value for money studies connected to audit work, with the agreement of the audited body. In addition, the National Audit Office would be able to identify wider issues of concern about local bodies' use of resources in general, should such issues be identified by the audit process.

6. Assurance functions

National Fraud Initiative

33. The National Fraud Initiative (NFI) is a data matching exercise, which is run under the Audit Commission's statutory data matching powers. The NFI works within a strong legal framework, including the Data Protection Act 1998, which is designed to protect individuals' personal data.
34. The NFI plays an important role in protecting the public purse against fraud. For example, fraudsters often target different organisations at the same time, using the same fraudulent identities. The NFI combats this threat by comparing or 'matching' information held by different organisations and within organisations to identify anomalies that indicate potentially fraudulent claims and overpayments.
35. A key strength of the NFI is that it brings together a wide range of bodies in tackling fraud. It helps individual organisations go beyond what they could do acting alone. The last NFI exercise in 2008/09 processed some 8,000 datasets from 1,300 organisations, including 100 from the private sector; It helped trace £215m in fraud, error and overpayments bringing the total detected since it started in 1996 to £664m
36. The Government is currently considering how the function might be delivered in the new audit environment and is discussing this with other bodies that have an interest in ensuring its future. In the meantime the 2010-11 exercise is continuing as normal.

Grant certification

37. Under section 28 of the Audit Commission Act 1998, the Audit Commission makes arrangements for certifying claims and returns in respect of grants or subsidies from Government Departments. Auditors also certify other financial returns such contributions payable to the national non domestic rating pool, and the Commission provides significant technical guidance, advice, tools and system support for auditors.
38. Certification work is separate from audit and is a form of assurance engagement designed to provide assurance for the accounting officers of the

Agenda Item 9

grant paying bodies and contribute to the assurance sought by the National Audit Office when auditing grant-paying bodies.

39. It is the Commission, rather than its appointed auditors, that has the responsibility for making certification arrangements. In discharging this function the Commission works with each of the grant paying bodies to develop certification instructions specific to each grant scheme, and which must be followed by auditors appointed by the Commission. It also provides technical guidance, advice and tools to auditors and the grant paying bodies to ensure a consistent approach.
40. In future, the Government envisages that grant certification will be undertaken by the external auditor. The certification arrangements will continue to be proportionate to the amount of the claim and the auditors' assessment of the control environment involved.

7. Conclusion

41. In conclusion, the Government has already removed burdens on local authorities and is committed to reducing further central Government control and monitoring. It is disbanding the Audit Commission and refocusing audit on helping local people to hold councils and local public bodies to account for local spending decisions.
42. The Government is working with a wide range of partners to design a new local audit regime, and prepare the in-house practice for transfer to the private sector, wind down the Commission and transfer any residual functions that are to be retained. The primary legislation necessary to make these changes will be introduced at the earliest opportunity. In the meantime, the Government will consult on its proposals for a new audit regime and will consider whether a draft bill would be helpful as a means of achieving early scrutiny of legislation.

Annex A

List of bodies to which the Audit Commission appoints auditors

A local authority
A joint authority
The Greater London Authority
A functional body
The London Pensions Fund Authority
The London Waste and Recycling Board
A parish meeting of a parish not having a separate parish council
A committee of a local authority, including a joint committee of two or more such authorities
The Council of the Isles of Scilly
Any Charter Trustees constituted under section 246 of the Local Government Act 1972
A Health Service Body prepared under paragraph 3(1) of Schedule 15 to the National Health Service Act 2006
A port health authority
The Broads Authority
A national park authority
A conservation board established by order under section 86 of the Countryside and Rights of Way Act 2000
A police authority established under section 3 of the Police Act 1996
A fire and rescue authority constituted by a scheme under Section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies
An authority established for an area in England by an order under section 207 of the Local Government and Public Involvement in Health Act 2007 (joint waste authorities)
A licensing planning committee
An internal drainage board
A local probation board established under section 4 of the Criminal Justice and Court Services Act
A probation trust (other than a Welsh probation trust as defined in paragraph 13(6) of Schedule 1 to the Offender Management Act 2007
An economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009
A combined authority established under section 103 of that Act
The accounts of the collection fund of the Common Council and the accounts of the City fund
The accounts relating to the superannuation fund maintained and administered by the Common Council under the Local Government Pension Scheme Regulations 1995
Passenger Transport Executive

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Agenda Item 10

REPORT TO: Cabinet Member – Performance and Governance

DATE: 16 March 2011

SUBJECT: Government Code of Recommended Practice on Local Authority Publicity

WARDS AFFECTED: All

REPORT OF: Assistant Chief Executive, Samantha Tunney

CONTACT OFFICER: Dan Grice (Head of Communications)

EXEMPT/CONFIDENTIAL: No

PURPOSE/SUMMARY: To outline the Government response to the recent consultation on a new Code of Recommended Practice on Local Authority Publicity and its impact on Sefton Council.

REASON WHY DECISION REQUIRED:

To ensure that the Council is able to comply with the Code of Practice.

RECOMMENDATION(S):

To note the content of the report and endorse the thinking around implementation and compliance of the Code across the Council.

KEY DECISION: No

FORWARD PLAN: No

IMPLEMENTATION DATE: N/A

Agenda Item 10

ALTERNATIVE OPTIONS:

IMPLICATIONS:

Budget/Policy Framework: None directly arising from this report.

Financial:-

<u>CAPITAL EXPENDITURE</u>	2010/ 2011 £	2011/ 2012 £	2012/ 2013 £	2013/ 2014 £
Gross Increase in Capital expenditure				
Funded by:				
Sefton Capital Resources				
Specific Capital Resources				
<u>REVENUE IMPLICATIONS</u>				
Gross Increase in Revenue Expenditure				
Funded by:				
Sefton funded Resources				
Funded from External Resources				
Does the External Funding have an expiry date? Y/N				
How will the service be funded post expiry?				

Legal: Not applicable

Risk Assessment: Not applicable

Asset Management: Not applicable

CONSULTATION UNDERTAKEN/VIEWS

CORPORATE OBJECTIVE MONITORING:

<u>Corporate Objective</u>		<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		✓	
2	Creating Safe Communities		✓	
3	Jobs and Prosperity		✓	
4	Improving Health and Well-Being		✓	
5	Environmental Sustainability		✓	
6	Creating Inclusive Communities		✓	
7	Improving the Quality of Council Services and Strengthening local Democracy	✓		
8	Children and Young People		✓	

LIST OF BACKGROUND PAPERS RELIED UPON IN THE PREPARATION OF THIS REPORT

Government Code of Recommended Practice on Local Authority Publicity

Agenda Item 10

1.0 Background

The Government has recently consulted on a new Code of Recommended Practice on Local Authority Publicity which lays out a number of rules for Local Authorities to follow (a copy of the Code is attached in Annex A).

These rules cover a number of areas including the; *appropriate use of publicity, even-handedness, equality and diversity and care during periods of heightened sensitivity.*

Much of the guidance laid out in the new rules is already covered in other areas of legislation, including the guidance on Local Authority publicity during an election period. Sefton already adheres to such rules and also follows current guidance on political balance etc.

In essence, the new recommended practice strengthens this existing legislation and then focuses on two new areas, which are; the use of council newspapers and the use of political lobbyists by local authorities.

Sefton Council does not produce a corporate newspaper and does not corporately use political lobbyists. Work is ongoing to find the best channels for true two-way communication with residents which are both prioritised and cost effective. This will not result in any type of corporate newspaper and is focusing on other methods, such as the web, in a bid to reduce the amount of print (eg leaflets and newsletters) being produced by departments.

2.0 Consultation Response

The Government has published a document which sets out its response to the consultation undertaken in 2010 on proposals to revise the content of the Code of Recommended Practice on Local Authority Publicity ("the Publicity Code"). The document also sets out the Government's response to a report published by the Communities and Local Government Select Committee.

The Government consulted on a revised Publicity Code, which was based on the seven principles that local authorities should:

- Be lawful;
- Be cost-effective;
- Be objective;
- Be even-handed;
- Be appropriate;
- Have regard to equality and diversity;
- Be issued with care during periods of heightened sensitivity.

Agenda Item 10

The consultation sought views on whether the revised Publicity Code:

- encompassed the full scope of guidance required by local authorities;
- represented a sufficient toughening of the rules to stop unfair competition by local authority newspapers;
- would still enable councils to provide their communities with the information local people need; and
- was clear enough in prohibiting inappropriate use of lobbyists, or stalls at party conferences.

Points made in the Government's response to the consultation include:

- The Government has concluded that the revised format of the Publicity Code is a success and that no changes are needed to the revised structure or the broad principles.
- Quarterly is the right frequency for the publication of local authority newsletters. However, the Government acknowledges that parish council newsletters do not constitute competition to local newspapers and has therefore revised the Publicity Code to advise parish and town councils that it is acceptable to publish on a monthly basis.
- The Publicity Code has been revised to make it clear that local authorities may communicate, explain and justify their policies and actions to the public.
- The Government's view is that there is no power in the Local Government Act 1986 to provide for any enforcement mechanism in response to any purported breach of the Publicity Code. It suggests that members of the public should raise any concerns with the relevant local authority or contact the local authority's auditors.
- The Government considers that the way in which members of the public obtain information about their local authority is changing. It says that local authorities should not restrict themselves to blanket leafleting to communicate matters to the public and should take an innovative approach to getting information to those that need it, placing information where users of a service have access to it and focusing resource where it will do the most good. For example, it says that it is not credible that information about a road closure would need to be distributed to every household in an authority.
- The Government acknowledges that the revised Publicity Code was ambiguous about what sort of specialist assistance it was legitimate for a local authority to employ where that skill did not exist inside the local authority itself. The revised Publicity Code has been amended to simplify the section on lobbying.

Points made in the report of the Communities and Local Government Select Committee included:

- The committee found little hard evidence to support the view of the newspaper industry that council publications were competing to any significant extent with independent newspapers. However, there was a concern that some local authorities were using council taxpayer's money to promote their local politicians or policies. The report said that it was

Agenda Item 10

appropriate that the proposed Code should prevent such activities being undertaken at taxpayers' expense.

- The committee believed that if properly enforced, the provisions in the proposed Code relating to cost-effectiveness, content and appearance were sufficient to deal with the excesses of certain local authority papers and the committee doubted the need to specify frequency of publication in the Code, especially in the context of localism.
- The committee recommended that the Government review the publication requirements for statutory notices, with a view to making them more cost effective and to allow local authorities to take advantage of new means of publication such as the internet.
- The committee was persuaded that the issue of the use of public money on political lobbying is an important one which the Government needed to address but it was not persuaded the Publicity Code was the right tool to apply constraints on such activity.

In response to the report of the Communities and Local Government Select Committee, the Government commented:

- The Government is pleased that the committee recognises the importance of the provisions in the Publicity Code on cost-effectiveness, content and appearance of publicity but also considers that the frequency of local authority publications is an important issue.
- In the Government's judgement, there is an issue with local authority newspapers constituting unfair competition to local newspapers and the Government is taking action to address this now rather than delaying to conduct further statistical exercises.
- The Government considers that the revised Publicity Code supports localism.
- The Government recognises that, in the version of the proposed revised Publicity Code consulted upon, there was scope for confusion about what constitutes a "lobbyist". The version of the Code laid before Parliament uses the word "lobbyist" to describe a professional retained to gain political advantage for the local authority.
- The Government considers that the prohibition on the use of lobbyists is within the general ambit of the Code as the use of lobbyists is related to publicity in that it is one of the methods by which local authorities might spend taxpayers' money to influence people.
- The Government notes the committee's recommendation that the Government review the publication requirements for statutory notices, with a view to making them more cost effective and to allow local authorities to take advantage of the opportunities for dissemination of information provided by the internet.

3.0 Impact for Sefton Council

The proposed practice fits in very well with a more integrated way of working for Sefton Council as it considerably strengthens the rules around: *“decisions by local authorities relating to paid advertising and leaflet campaigns, publication of free newspapers and news-sheets and maintenance of websites – including the hosting of material which is created by third parties.”*

A strong corporate communications function is needed to ensure this Code of Recommended Practice is followed, although it is recognised that a considerable drop in communications activity, across the council, will be the result from the current austerity measures.

In short, the new Code of Recommended Practice strengthens the need for all future council communications to be corporately planned to ensure that only essential messaging with a business priority goes forward. It will then be a priority, to satisfy both austerity and to meet the recommended practice, that the correct medium is selected.

The Corporate Communications Team will now highlight the Code to all departments to ensure that they comply. As arrangements are firmed up for greater corporate communications methods in the future it will be easier to ensure that the rules within the Code and the principles behind them are observed.

The Code of Recommended Practice runs alongside the future planning which is currently evaluating a number of communication methods with regard to prioritisation of activity, cost-effectiveness and a single-script for the authority. This includes work to operate a pilot social networking project as agreed by Cabinet Member Performance and Governance at his February 2011 meeting.

4.0 Recommendations

To note the content of the report and endorse the thinking around implementation and compliance of the Code across the Council.

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Communities in Control: Real people, real power
Code of recommended practice on local authority publicity
A consultation

Agenda Item 10



Communities in Control: Real people, real power
Code of recommended practice on local authority publicity
A consultation

Communities and Local Government
Eland House
Bressenden Place
London
SW1E 5DU
Telephone: 020 7944 4400
Website: www.communities.gov.uk

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Communities and Local Government Publications
PO Box 236
Wetherby
West Yorkshire
LS23 7NB
Tel: 0300 123 1124
Fax: 0300 123 1125
Email: communities@capita.co.uk
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Contents

Chapter 1	The consultation and how to respond	5
	Communities in control consultation papers	5
	About this consultation	5
	Who we are consulting?	6
	How to respond	6
	What will happen to the responses?	7
	Publication of responses – confidentiality and data protection	7
	The consultation criteria	7
	Additional copies	8
	In context – previous consultation and relevant legislation	8
Chapter 2	Effective communication and publicity	10
	Effective communication	10
	The Publicity Code	10
	Local authority publicity	11
	Promoting democracy and the role of councillors	12
	Other guidance for councils	13
Chapter 3	Review of the Publicity Code	14
Annex A	Full list of consultation questions	18
Annex B	Code of recommended practice on local authority publicity (1988)	20
Annex C	Code of recommended practice on local authority publicity (2001)	26
Annex D	The consultation code of practice	33

Chapter 1

The consultation and how to respond

Communities in Control consultation papers

- 1.1 The white paper, *Communities in Control: Real people, real power*, is about passing power into the hands of local communities. It sets out a range of policies to achieve this, building on work still in progress from the 2006 white paper, *Strong and Prosperous Communities*.
- 1.2 This paper is the next in a series consulting on a number of policy commitments and invites comments about the future of the Code of Recommended Practice on Local Authority Publicity (the 'Publicity Code'). It invites views on the content of the Publicity Code as an instrument for protecting public money (of either national or local taxpayers) while allowing councils to issue effective publicity.

About this consultation

- 1.3 The proposals in this consultation paper relate to relevant authorities in England. Authorities in Scotland and Wales have their own versions of the Publicity Code, which are the responsibility of the relevant devolved authorities.
- 1.4 The white paper *Communities in control* committed the Government to consulting on potential changes to the Publicity Code. This document is the first part of that consultation. The last Government consultation on the Publicity Code in January 2007 revealed support for the Publicity Code as a useful source of advice for authorities on sensitive issues on the use of resources. Following that, the Councillors Commission received views that the Publicity Code may have been seen as a hindrance to councils promoting the role of the councillor. This consultation paper explains the importance of local authority publicity, seeks confirmation of the results of our earlier consultation in January 2007, seeks also to establish views of the Publicity Code across the local government sector and stakeholders and goes on to ask how a Publicity Code might function without being, or being perceived as, a disincentive to effective communication.
- 1.5 If the Government considers that revisions to the Publicity Code are required then the comments and views received in response to this consultation document will form the basis for a revised Publicity Code, the text of which we will consult on in 2009.

Agenda Item 10

6 | Communities in Control: Real people, real power

- 1.6 Chapter 2 of this paper explains more thoroughly the context of the consultation, with particular reference to the promotion of democracy and a positive image of the role of councillors.
- 1.7 Chapter 3 of this paper seeks views on what should constitute the Publicity Code.
- 1.8 Particular questions on which we would welcome comments are set out in each chapter and summarised in annex A. In order to aid your consideration of the possible content of a future Publicity Code, the current code is reproduced at annexes B and C.
- 1.9 We are minded, subject to responses to this consultation, to implement the measures arising from the response to this and any subsequent consultation on the Publicity Code so that they can come into effect in line with any guidance that may be issued about the currently proposed authorities' duty to promote democracy in 2009.

Who we are consulting?

- 1.10 This is a public consultation and it is open to anyone to respond to this consultation document. We would, however, particularly welcome responses from council officials and councillors. **The consultation period runs for 12 weeks to 12 March 2009.**

How to respond

- 1.11 Your response must be received by 12 March 2009 and may be sent by e-mail or post to:

Karl Holden
Conduct and Council Constitutions Team
Communities and Local Government
Zone 5/B2, Eland House
Bressenden Place
London
SW1E 5DU
e-mail: publicitycode@communities.gsi.gov.uk

If you are replying by e mail please title your response 'Response to Publicity Code consultation'.

It would be helpful if you could make clear in your response whether you represent an organisation or group, and in what capacity you are responding.

What will happen to the responses?

- 1.12 The Department will take account of the responses received to this consultation before taking decisions on possible changes to the Publicity Code.
- 1.13 Within three months of the close of the consultation period we will analyse the responses to the consultation and produce a summary of them. This summary will be published on the Department's website at www.communities.gov.uk

Publication of responses – confidentiality and data protection

- 1.14 Information provided in response to this consultation, including personal information, may be published, or disclosed in accordance with the access to information regimes. (These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).
- 1.15 If you want any of the information that you provide to be treated as confidential you should be aware that under the FOIA, 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.
- 1.16 If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an 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.
- 1.17 The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

The Consultation Criteria

- 1.18 The UK Government has adopted a code of practice on consultations. Please see annex D of this document for the criteria that apply under this code, and advice about who you should contact if you have any comments or complaints about the consultation process.

Additional copies

- 1.19 You may make copies of this document without seeking permission. If required, printed copies of the consultation paper can be obtained from Communities and Local Government Publications, whose contact details may be found at the front of this document. An electronic version can be found at the Consultation Section of the Department's website at: www.communities.gov.uk.

In context – previous consultations and relevant legislation

- 1.20 The consultation document *Consultation on Amendments to the Model Code of Conduct for Local Authority Members* published in January 2007 asked, among other things, if the Publicity Code served a useful purpose. The responses suggested support for the Publicity Code as a useful source of advice for authorities on sensitive issues on the use of resources for publicity.
- 1.21 The Publicity Code is issued under powers conferred on the Secretary of State under section 4(1) of the Local Government Act 1986 ("the 1986 Act"). Local authorities are required by section 4(1) of the Act as amended by section 27 of the Local Government Act 1988 to have regard to the Publicity Code in coming to any decision on publicity.
- 1.22 The Publicity Code does not, and cannot, override section 2 of the 1986 Act, which provides that a local authority shall not publish, or assist others to publish, material which in whole or in part appears designed to affect public support for a political party.
- 1.23 Section 6(4) of the 1986 Act defines publicity as 'any communication, in whatever form, addressed to the public at large or to a section of the public'. The Publicity Code will therefore be relevant across the whole range of local authority work. It covers all decisions by a local authority on publicity and most public relations activities, such as paid advertising and leaflet campaigns and local authority sponsorship of exhibitions and conferences, as well as assistance to others to issue publicity.
- 1.24 Section 6(2)(a) of the 1986 Act sets out the types of authority to which the Code can apply in England:
- a county, district or London borough council
 - the Common Council of the City of London
 - the Broads Authority
 - a police authority established under section 3 of the Police Act 1996

- the Metropolitan Police Authority
- a joint authority established by Part 4 of the Local Government Act 1985
- the London Fire and Emergency Planning Authority
- the Council of the Isles of Scilly or
- a parish council

1.25 The Publicity Code also applies to National Parks Authorities by virtue of the Environment Act 1995.

1.26 By virtue of section 6(6) of the 1986 Act, nothing in the Publicity Code is to be construed as applying to any decision by a local authority in the discharge of their duties under Part 5A of the Local Government Act 1972 (which provides for access to meetings and documents of certain authorities, committees and sub-committees).

1.27 The Publicity Code was first published on 15 August 1988 and applied to local authorities in England Scotland and Wales. That Code was amended on 2 April 2001 in England only, as regards its application to county councils, district councils and London borough councils. This consultation is concerned with the application of the Publicity Code, including the amendments made in 2001, to local authorities in England.

1.28 The Publicity Code, as published in 1988, remains applicable in Scotland; the National Assembly for Wales issued a revised Code in October 2001 which applies in Wales.

Chapter 2

Effective communication and publicity

Effective communication

- 2.1 For a community to be a healthy local democracy requires local understanding. Effective communication is key to developing that understanding. In recent years local authorities have used local publicity not only to keep their communities informed of the services that they provide, but also to encourage greater participation. Good, effective publicity, aimed at improving public awareness of councils' activities is to be welcomed and encouraged.

The Publicity Code

- 2.2 Publicity, however, can be a sensitive matter because of the impact it can have and because of the costs associated with it, which can be considerable. It is essential, therefore, to ensure that decisions about local authority publicity are properly made.
- 2.3 It was against this background that the Publicity Code was introduced in 1988. The purpose of the Publicity Code was to set out clear principles of good practice. In doing so, it reflected conventions that applied to publicity which had traditionally been applied in both central and local government.
- 2.4 The Publicity Code took account of the fact that some local authority publicity dealt with issues that are controversial because of local circumstances or because of a difference of view between political parties locally or nationally. The principles were not intended to inhibit or prohibit the publication of information on politically sensitive or controversial issues, nor to stifle public debate. Rather, it set out matters it was considered a local authority should give consideration to, to ensure public funds were not misused and to safeguard those members of the public at whom the publicity was directed. The Publicity Code was especially relevant to publicity that dealt with controversial or sensitive issues.
- 2.5 The stated underlying objective of the Publicity Code was to ensure the proper use of public funds for publicity.

- 2.6 The Publicity Code has now been in place for twenty years. While many of the values it enshrines, such as ensuring that the authority should ensure that publicity produced is a proper use of public funds, are beyond dispute, we recognise that there may be an argument that a Publicity Code is not required, or not required in its present form, to ensure that this is the case. There are other safeguards in place which contribute to ensuring the proper use of public resource in an authority, principally through the authority's auditor but in addition, more locally, councils' spending can be held to account through overview and scrutiny committees, by the Audit Commission through Comprehensive Performance Assessment, Comprehensive Area Assessment and Use of Resources assessments and the behaviour of councillors through the local authority's standards committee. Ultimately, the council is accountable to its electorate.
- 2.7 The Publicity Code is thus part of a range of legislation intended to ensure that local authority publicly funded publicity is appropriate. Moreover, the Local Government Act 1972 gives local authorities the power to arrange to publicise services offered by them or by other local authorities in their community while the Public Health (Control of Disease) Act 1984 empowers local authorities to arrange for the publication in their area of information relating to health or disease. In addition, Part 1 of the Local Government Act 2000 empowers local authorities to promote well-being in their communities.

Local authority publicity

- 2.8 Since the 2001 white paper *Quality public services* there has been a move away from central government prescription to local government having more flexibility to decide how they wish to conduct business. The white paper began the process of devolving power to local government to enable it to make its own decisions about where to direct resources. This process continued with the 2006 white paper *Strong and prosperous communities*, the Local Government and Public Involvement in Health Act 2007 and continues in the 2008 white paper *Communities in control*.
- 2.9 Part of this process involved reinvigorating and rehabilitating politics at the local level. One aspect of this is acknowledging the political nature of local government; councils are political bodies, led by democratically elected politicians making decisions about local priorities. They are not simply neutral bodies for service delivery. We consider that it is important for the health of local democracy that citizens are aware of how decisions are made at the local level, and who is making them. To aid this, we consider that councils should be able to help publicise the role of the activities of the authority and the activities of individual councillors to help promote democracy in the community.

Agenda Item 10

12 | Communities in Control: Real people, real power

- 2.10 We want councils to be able to play a role in helping councillors to communicate with citizens and to allow people to understand who their elected representatives are, what views they have and what they are doing on behalf of those who elected them.
- 2.11 To achieve this, the Publicity Code should not prevent councils from producing publicity that explains clearly the political control of their council, who leads the council and the political composition of the council.
- 2.12 Nor should it be seen to prevent members having, in the interests of their constituents, a public voice funded by the taxpayer to inform their community about what activities they have been undertaking in their role as councillor, in either any particular role they fulfil on the council, or as a representative of their ward.
- 2.13 The Publicity Code should not form a barrier to members using publicly funded publicity to discuss, in the interest of their constituents, matters that are of personal interest to those members, nor should it bar them from providing useful and pertinent contact details and links to other bodies. All publicity funded by a local authority, or which they assist others to publish, is subject to the statutory prohibition that it cannot appear designed to affect public support for a political party.

Promoting democracy and the role of councillors

- 2.14 In the Government's response to the Councillors Commission report, published in July 2008, the Department for Communities and Local Government acknowledged that there was confusion in local government about how far councils should promote and support councillors' activities and explained that the Department wanted to clarify this, so that any guidance or advice recognises the legitimate support that should be given to councillors. In addition the white paper *Communities in control*, also published in July, recognised that there was confusion within local government about how far local authorities should promote and support councillors' activities and, in this context, recognised the need to review the Publicity Code.
- 2.15 The Councillors Commission research also made it clear that in order to make the councillor role easier and more attractive, the level of awareness of the role needs to be raised. Council publicity can be an effective tool in demystifying the role and making currently under-represented groups, and the wider community as a whole, more aware of what is involved and what decisions councillors make on their behalf.
- 2.16 Those who work in local government should feel confident about operating in a political environment and giving elected councillors the support they require. The response to the Councillors Commission report announced the Government's intention of introducing a new duty on local authorities to support democracy and encouraged councils to take a range of actions as part of their new responsibility, including:

- **better information:** council publications and websites should provide clear information about political control, council meetings, councillors' surgeries and how to contact both councillors and local political parties
- **a two-way process:** using local radio, blogs, podcasts and interactive websites to improve dialogue between councillors and local people
- **getting people involved:** explaining to all communities how to be a councillor or take up other civic roles – including school governorships or health board membership – through websites and newsletters
- **promoting democracy:** councils could involve officials or former councillors in promoting local democracy through making positive presentations to local volunteer groups or boards about how to get involved in local governance roles and by promoting the role of the council and councillors in the community
- **targeting:** disseminating information about involvement in local democracy to groups not well represented among councillors in the area

2.17 The Government's response to the Councillors Commission report also expressed the Department's wish to see councillors encouraged to make use of more types of media, such as community radio or the internet as well as traditional methods of communication. Local authority publicity has a key role to play in delivering a positive media profile of the work of councillors. Councillors should be role models for their communities, being a role model means being visible and publicity can aid that visibility.

2.18 We want to ensure that councils, and councillors, do not consider themselves unduly restricted in the types of communication that they can engage in. To ensure that councils will not be inhibited in their new duty to promote democracy, councils will need to be prepared to publicise how to get involved in local decision making processes, will have to target publicity at groups that are under-represented in the democratic process and make the most effective use of advertising.

Other guidance for councils

2.19 We also want to establish whether there is other guidance for councils, besides the Publicity Code, which is seen to be a disincentive in terms of being able to provide citizens with the publicity that they require or councillors with the support that they require and whether this guidance need clarifying or amending?

Question 1: Is there other guidance, (additional to the Publicity Code), that councils consider creates a barrier to the provision of publicity or support, or that needs clarifying?

Chapter 3

Review of the Publicity Code

3.1 The existing Publicity Code gives recommended practice on a number of aspects of publicity ranging from subject matter to assistance to others for publicity. This chapter gives a brief explanation of the current function of each section of the Publicity Code, it is not a proposal of what might constitute a revised Code. The explanation overlooks the distinctions between the 1988 Publicity Code (which continues to apply to certain bodies) and the Publicity Code as revised (which applies to principal bodies in England). A number of open questions about what changes might be required are also asked.

Question 2: Is there a requirement for different codes to apply to different types of authority?

Question 3: Should the Publicity Code specifically address the presentation of publicity on an authority's website?

First section of the current Code: Subject matter

In summary, the current Publicity Code provides as follows: Local authorities have a variety of statutory powers which enable them to produce publicity and circulate it, or to assist others to do so. Some of those powers relate directly to the authority's functions, others give a more general discretion to publicise matters which go beyond an authority's primary responsibilities. This discretion provides an important degree of flexibility, but also heightens the need for a responsible approach to expenditure decisions. The Publicity Code lists the matters an authority should consider when determining whether to issue publicity material (see annexes B and C).

Question 4: Does anything need to be added to or removed from the list of matters an authority should consider in determining whether or not to issue publicity on a certain subject?

Second section of the current Code: Costs

In summary, the current Publicity Code provides as follows: Local authorities are accountable to the public for the efficiency and effectiveness of their expenditure and expenditure on publicity should always be cost-effective. The Publicity Code recognises that publicity can be expensive and that while in some cases publicity may justify cost by virtue of savings produced, the unquantifiable benefits of publicity are also important. The Publicity Code lists matters local authorities should consider in determining whether the costs of their publicity are justifiable.

Question 5: Should the Publicity Code specify the different criteria local authorities should use to determine whether or not publicity can be judged to be cost effective?

Question 6: Is there any aspect of the cost section that is not required or anything which should be added?

Third section of the current Code: Content

In summary, the current Publicity Code provides as follows: Local authorities produce a variety of publicity material, from factual information about services to staff recruitment advertising. Publicity will also be produced to explain or justify the council's policies either in general or on specific topics. The Publicity Code requires that publicity describing the council's policies and aims should be as objective as possible, makes provision for the production of promotional material and states that publicity should not appear to undermine generally accepted moral standards. It also makes provision for the production of publicity material to support campaigns to influence behaviour or attitudes, for instance on health matters, but prohibits publicity campaigns intended to persuade the public to hold a particular view on a question of policy.

Question 7: Should the Publicity Code contain advice about ethical standards in publicity, or should this be left to local authorities to judge for themselves?

Question 8: Is there any aspect of the content section that is not required or anything which should be added?

Fourth section of the current Code: Dissemination

In summary, the current Publicity Code provides as follows: Local authorities should ensure that information and publicity produced by the authority is available to those that want or need it. The Publicity Code makes clear that publicity material should be targeted at those who would best benefit from it and that material closely affecting vulnerable members of the community should be clear and unambiguous. It is also clear that unsolicited material is more intrusive than publicity available on application.

Agenda Item 10

16 | Communities in Control: Real people, real power

Question 9: Should the Publicity Code be modified to specifically address the issue of privacy and the dissemination of unsolicited material?

Question 10: Is there any aspect of the dissemination section that is not required or anything which should be added?

Fifth section of the current Code: Advertising

In summary, the current Publicity Code provides as follows: Advertising can be an expensive but effective method of getting a message across to a wide audience. While effective at conveying simple messages, advertising is inappropriate for explaining more complex policy issues and should be used appropriately. The Publicity Code prohibits the purchase of advertising space as a means of subsidising another organisation, or advertising on their behalf.

Question 11: Is there any aspect of the advertising section that is not required or anything which should be added?

Sixth section of the current Code: Recruitment advertising

In summary, the current Publicity Code provides as follows: Local authority recruitment publicity should reflect the tradition of political impartiality in the local government service and the media chosen to advertise local authority positions should reflect the objective of maintaining the politically independent status of local authority staff. The current Publicity Code restricts any council posts from being advertised in political publications.

Question 12: Should adverts for local authority political assistants appear in political publications and websites?

Question 13: Is there any aspect of the recruitment advertising section that is not required or anything which should be added?

Seventh section of the current Code: Publicity about individual members of an authority

In summary, the current Publicity Code provides as follows: A local authority discharges its functions corporately and it is inappropriate to publicise the activities of particular councillors except when councillors are representing the council as a whole. Personalisation of issues or image making should be avoided and the publicity should not be liable to misrepresentation as being party political.

Question 14: Given the emphasis given to supporting and raising awareness of the role of the councillor in the white paper, is there any aspect of the section on councillors that is not required, or anything which should be added?

Eighth section of the current Code: Timing of publicity – elections, referendums and petitions

In summary, the current Publicity Code provides as follows: While a local authority may issue publicity during the period between notice of an election and the election itself, if it is not intended to affect the public's opinion of the authority or influence public opinion, care should be taken when publicity is issued after an announcement of an election, by-election or referendum affecting the authority's area to ensure that this could not be perceived as seeking to influence public opinion or using the authority's resources to promote the public image of a particular candidate or group of candidates.

Publicity issued by an authority in the period between the calling of a referendum and the date of the referendum should not be capable of perceived as seeking public support for, or opposition to, the referendum proposals and should not associate support for, or opposition to, the proposals with any individual or group.

Authorities should not mount publicity campaigns where the primary purpose is to persuade the public to hold a particular view in relation to petitions generally or on a specific proposal.

Question 15: Is there any aspect of the timing of publicity section that is not required, or anything which should be added?

Ninth section of the current Code: Assistance to others for publicity

In summary, the current Publicity Code provides as follows: Local authorities should ensure that the principles of the Publicity Code should be taken into account by local authorities in decisions on assistance to others to issue publicity. The authority should, if incorporating principles of the Publicity Code into guidance for applicants for grants, make the observance of the principles a condition of the grant or other assistance and ensure that provision is made to monitor publicity produced to ensure that the guidance is being observed. Authorities should make fair and equal provision for the display or dissemination of publicity material produced by charities or voluntary organisations.

Question 16: Is there any aspect of the assistance to others for publicity section that is not required, or anything which should be added?

Annex A

List of consultation questions

Chapter 2: Effective communication and publicity

Question 1	Is there other guidance, (additional to the Publicity Code), that councils consider creates a barrier to the provision of publicity or support, or that needs clarifying?
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Chapter 3: The Publicity Code

Question 2	Is there a requirement for different codes to apply to different types of authority?
Question 3	Should the Publicity Code specifically address the presentation of publicity on an authority's website?
Question 4	Does anything need to be added to or removed from the list of matters an authority should consider in determining whether or not to issue publicity on a certain subject?
Question 5	Should the Publicity Code specify the different criteria local authorities should use to determine whether or not publicity can be judged to be cost effective?
Question 6	Is there any aspect of the cost section that is not required or anything which should be added?
Question 7	Should the Publicity Code contain advice about ethical standards, or should this be left to local authorities to judge for themselves?
Question 8	Is there any aspect of the content section that is not required or anything which should be added?
Question 9	Should the Publicity Code be modified to specifically address the issue of privacy and the dissemination of unsolicited material?
Question 10	Is there any aspect of the dissemination section that is not required or anything which should be added?
Question 11	Is there any aspect of the advertising section that is not required or anything which should be added?
Question 12	Should adverts for local authority political assistants appear in political publications and websites?

Question 13	Is there any aspect of the recruitment advertising section that is not required or anything which should be added?
Question 14	Given the emphasis given to supporting and raising awareness of the role of the councillor in the White Paper, is there any aspect of the section on councillors that is not required, or anything which should be added?
Question 15	Is there any aspect of the timing of publicity section that is not required, or anything which should be added?
Question 16	Is there any aspect of the assistance to others for publicity section that is not required, or anything which should be added?

Annex B

Code of Recommended Practice on Local Authority Publicity as issued in 1988

Code of Recommended Practice

Subject matter

1. Local authorities have a variety of statutory powers which enable them to produce publicity and circulate it widely, or to assist others to do so. Those commonly used include the powers in sections 111, 142, 144 and 145 of the Local Government Act 1972.
2. Some of these powers relate directly to the publishing authority's functions. Others give a more general discretion to publicise matters which go beyond an authority's primary responsibilities. For example, sections 142(1A) of the 1972 Act and 88(1) of the 1973 Act authorise local authorities to arrange for the publication within their area of information as to the services available in the area provided by them or by other local authorities; and Section 54 of the Public Health (Control of Disease) Act 1984 empowers local authorities to arrange for the publication within their area of information on questions relating to health or disease.
3. This discretion provides an important degree of flexibility, but also heightens the need for a responsible approach to expenditure decisions.
4. In considering the subject areas in which publicity is to be issued, the following matters will be important:
 - (i) the publicity should be relevant to the functions of the authority.
 - (ii) it should not duplicate unnecessarily publicity produced by central government, another local authority or another public authority.
 - (iii) in areas where central government, another tier of local government, or another public authority have the primary service or policy responsibility, local authorities should issue publicity only on matters that are directly relevant to their own functions.

Costs

5. Local authorities are accountable to the public for the efficiency and effectiveness of their expenditure, in the first instance through the audit arrangements.

6. For publicity, as for all other expenditure, the aim should therefore be to achieve the greatest possible cost-effectiveness.
7. To achieve this, there may well be cases where the benefit of higher expenditure to gain better presentation or improve other aspects of publicity will justify the extra cost.
8. Local authorities should therefore always have in mind the extent to which expert advice is needed for publicity.
9. In some cases publicity may justify its cost by virtue of savings which it achieves. More commonly it will be necessary to take a view of the importance of the unquantifiable benefits as compared with other uses to which the resources could be put.
10. In deciding whether the nature and scale of proposed publicity, and consequently its cost, are justified, the following matters will be relevant:
 - (i) whether the publicity is statutorily required or is discretionary.
 - (ii) where it is statutorily required, the purpose to be served by the publicity.
 - (iii) whether the expenditure envisaged is in keeping with the purpose and expected effect of the publicity.

Content and style

11. Local authorities produce a variety of publicity material. It ranges from factual information about the services provided by the authority, designed to inform clients or attract new ones, to material necessary to the administration of the authority, such as staff recruitment advertising. There will also be publicity to explain or justify the council's policies either in general, as in the annual report, or on specific topics, for example as background to consultation on the line chosen for a new road.
12. Any publicity describing the council's policies and aims should be as objective as possible, concentrating on facts or explanation or both.
13. Where publicity is used to comment on, or respond to, the policies and proposals of central government, other local authorities or other public authorities, the comment or response should be objective, balanced, informative, and accurate. It should aim to set out the reasons for the council's views, and should not be a prejudiced, unreasoning or political attack on the policies or proposals in question or on those putting them forward. Slogans alone will not be an adequate means of justifying or explaining the authority's views or their policy decisions.
14. Publicity relating to the provision of a service should concentrate on providing factual information about the service.

Agenda Item 10

22 | Communities in Control: Real people, real power

15. In some cases promotional publicity may be appropriate – for example about the local authority's sports and leisure facilities or about tourist attractions.
16. Publicity touching on issues that are controversial, or on which there are arguments for and against the views or policies of the council, should be handled with particular care. It should not over-simplify facts, issues or arguments. Again, it is unlikely that slogans alone will achieve the necessary degree of balance, or capture the complexities of opposing political arguments.
17. Publicity should not attack, nor appear to undermine, generally accepted moral standards.
18. Publicity campaigns by local authorities are appropriate in some circumstances: for example, to promote the effective and efficient use of local services and facilities, or to attract tourists or investment. Publicity campaigns may also be an appropriate means of influencing public behaviour or attitudes on such matters as health, safety, crime prevention or race relations.
19. Legitimate concern is, however, caused by the use of public resources for some forms of campaigns which are designed to have a persuasive effect. Publicity campaigns can provide an appropriate means of ensuring that the local community is properly informed about a matter relating to a function of the local authority and about the authority's policies in relation to that function and the reasons for them. But local authorities, like other public authorities, should not use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy.

Dissemination

20. The main purposes of local authority publicity are to increase public awareness of the services provided by the authority and the functions it performs; to explain to electors and ratepayers the reasons for particular policies and priorities; and in general to improve local accountability.
21. Information and publicity produced by the council should be made available to all those who want or need it. Local authorities should not discriminate in favour of, or against, persons or groups in the compilation and distribution of material for reasons not connected with the efficiency and effectiveness of issuing the publicity.
22. Where material is distributed on matters closely affecting vulnerable sections of the community – for example, the elderly – particular care should be taken to ensure that it is unambiguous, readily intelligible, and unlikely to cause needless concern to those reading, seeing or listening to it.

23. Local authority newspapers, leaflets, and other publicity distributed unsolicited from house to house are inevitably more intrusive than publicity available on application to the council.
24. Publicity that reaches the public unsolicited should be targeted as far as practicable on those whose interests are clearly and directly affected by its content.
25. Material touching on politically controversial issues should be distributed unsolicited only where there is a strong case for letting a particular group of people have information of direct concern to them and no other equally efficient and effective means can be found.
26. Local authority newspapers or information bulletins are a special case. They are often a cost-effective means of disseminating information, but they may touch on controversial issues. If they do, they should treat such issues in an objective and informative way, bearing in mind the principles set out in paragraphs 11 -19 of the Code.
27. Where it is important for information to reach a particular target audience, consideration should be given to using the communications networks of other bodies, for example those of voluntary organisations.

Advertising

28. Advertising, especially on billboards or on television and radio, is a highly intrusive medium. It can also be expensive. It may however provide a cost effective, efficient means of conveying public information to the widest possible audience. Advertising on local radio networks has, for example, been used as a relatively inexpensive means of telling potential clients about local authority services. Advertising can also be the most cost-effective means of publicising a local authority's activities on tourism, and in the area of economic development generally.
29. The primary criterion for decisions on whether to use advertising should be cost-effectiveness.
30. Advertisements are not normally likely to be appropriate as a means of explaining policy or commenting on proposals, since an advertisement by its nature summarises information, compresses issues and arguments, and markets views and opinions.
31. Advertising in media which cover an area significantly wider than that of the authority is not likely to be an appropriate means of conveying information about a local authority's policies as opposed to attracting people to the authority's area or to use its facilities.

Agenda Item 10

24 | Communities in Control: Real people, real power

32. The attribution of advertising material leaflets and other forms of publicity that reach the public unsolicited should be clearly set out.
33. It is not acceptable, in terms of public accountability, to use the purchase of advertising space as a disguised means of subsidy to a voluntary, industrial or commercial organisation. Such support should be given openly through the normal grant arrangements. However, the conditions attached to a grant may require the provision of publicity, including publicity for the work of the authority.
34. Any decision to take advertising space in a publication produced by a voluntary, industrial or commercial organisation should be made only on the grounds that it provides an effective and efficient means of securing the desired publicity.
35. Local authorities should never use advertising as a means of giving financial support to any publication associated with a political party.

Recruitment advertising

36. Local authorities have respected in their staff employment policies the tradition of a politically impartial public service. Their recruitment publicity should reflect this tradition, and the fact that local authority staff are expected to serve the authority as a whole, whatever its composition from time to time.
37. The content of recruitment publicity and the media chosen for advertising job vacancies should be in keeping with the objective of maintaining the politically independent status of local authority staff.
38. Advertisements for staff should not be placed in party political publications.

Publicity about individual members of an authority

39. The functions of a local authority are discharged by the council corporately. It is therefore inappropriate for public resources to be used to publicise individual councillors.
40. In the interests of public accountability, however, it may be appropriate to give publicity to the views or activities of individual members when they are representing the council as a whole: for example, when the chairman of a council speaks or acts as the first citizen of the whole community, or when a chairman of a committee opens a new scheme or launches a policy approved by the council or by his committee on the council's behalf.

41. For the same reason a local authority may justifiably in certain circumstances issue press releases reporting statements made by individual members. Examples of cases where such press releases may be appropriate are as reports of the discussion at the meetings of the council or committees, or quotations of comments made by leading members of the council in response to particular events which call for a particularly speedy reaction from the council.
42. This does not prevent a member of staff of a local authority from responding to questions about individual members, since that is not publicity as defined in the 1986 Act.

Timing of publicity

43. Particular care should be taken when publicity is issued immediately prior to an election or by-election affecting the authority's area to ensure that this could not be perceived as seeking to influence public opinion, or to promote the public image of a particular candidate, or group of candidates. Between the time of publication of a notice of an election and polling day, publicity should not be issued which deals with controversial issues, or which reports views or policies in a way that identifies them with individual members or groups of members.

Assistance to others for publicity

44. The principles set out above apply to decisions on publicity issued by local authorities. They should also be taken into account by local authorities in decisions on assistance to others to issue publicity. In all such decisions local authorities should, to the extent appropriate:
 - (a) incorporate the relevant principles of the Code in published guidance for applicants for grants;
 - (b) make the observance of that guidance a condition of the grant or other assistance;
 - (c) undertake monitoring to ensure that the guidance is observed.
45. It can be appropriate for local authorities to help charities and voluntary organisations by arranging for pamphlets or other material produced and paid for by the organisation to be available for collection by the public in public libraries and other suitable locations. Such material should not offend against any legal provision, but (subject to this) any such facility should be made available on a fair and equal basis.

Annex C

Code of Recommended Practice of Local Authority Publicity as amended in 2001 and which apply only to county councils, district councils and London borough councils in England

Code of Recommended Practice

Subject matter

1. Local authorities have a variety of statutory powers which enable them to produce publicity and circulate it widely, or to assist others to do so. Those commonly used include the powers in sections 111, 142, 144 and 145 of the Local Government Act 1972.
2. Some of these powers relate directly to the publishing authority's functions. Others give a more general discretion to publicise matters which go beyond an authority's primary responsibilities. For example, section 142(1A) of the 1972 Act and 88(1) of the 1973 Act authorise local authorities to arrange for the publication within their area of information as to the services available in the area provided by them or by other local authorities; and Section 54 of the Public Health (Control of Disease) Act 1984 empowers local authorities to arrange for the publication within their area of information on questions relating to health or disease.
3. This discretion provides an important degree of flexibility, but also heightens the need for a responsible approach to expenditure decisions.
4. In considering the subject areas in which publicity is to be issued, the following matters will be important:
 - (i) the publicity should be relevant to the functions of the authority.
 - (ii) it should not duplicate unnecessarily publicity produced by central government, another local authority or another public authority.

Costs

5. Local authorities are accountable to the public for the efficiency and effectiveness of their expenditure, in the first instance through the audit arrangements.

6. For publicity, as for all other expenditure, the aim should therefore be to achieve the greatest possible cost-effectiveness.
7. To achieve this, there may well be cases where the benefit of higher expenditure to gain better presentation or improve other aspects of publicity will justify the extra cost.
8. Local authorities should therefore always have in mind the extent to which expert advice is needed for publicity.
9. In some cases publicity may justify its cost by virtue of savings which it achieves. More commonly it will be necessary to take a view of the importance of the unquantifiable benefits as compared with other uses to which the resources could be put.
10. In deciding whether the nature and scale of proposed publicity, and consequently its cost, are justified, the following matters will be relevant:
 - (i) whether the publicity is statutorily required or is discretionary.
 - (ii) where it is statutorily required, the purpose to be served by the publicity.
 - (iii) whether the expenditure envisaged is in keeping with the purpose and expected effect of the publicity.

Content and Style

11. Local authorities produce a variety of publicity material. It ranges from factual information about the services provided by the authority, designed to inform clients or attract new ones, to material necessary to the administration of the authority, such as staff recruitment advertising. There will also be publicity to explain or justify the council's policies either in general, as in the annual report, or on specific topics, for example as background to consultation on the line chosen for a new road.
12. Any publicity describing the council's policies and aims should be as objective as possible, concentrating on facts or explanation or both.
13. Where publicity is used to comment on, or respond to, the policies and proposals of central government, other local authorities or other public authorities, the comment or response should be objective, balanced, informative, and accurate. It should aim to set out the reasons for the council's views, and should not be a prejudiced, unreasoning or political attack on the policies or proposals in question or on those putting them forward. Slogans alone will not be an adequate means of justifying or explaining the authority's views or their policy decisions.
14. Publicity relating to the provision of a service should concentrate on providing factual information about the service.

Agenda Item 10

28 | Communities in Control: Real people, real power

15. In some cases promotional publicity may be appropriate – for example about the local authority's sports and leisure facilities or about tourist attractions.
16. Publicity touching on issues that are controversial, or on which there are arguments for and against the views or policies of the council, is unavoidable, particularly given the importance of wide consultation whenever material issues arise. Such publicity should be handled with particular care. Issues must be presented clearly, fairly and as simply as possible, although councils should not over-simplify facts, issues or arguments. Again, it is unlikely that slogans alone will achieve the necessary degree of balance, or capture the complexities of opposing political arguments.
17. Publicity should not attack, nor appear to undermine, generally accepted moral standards.
18. Publicity campaigns by local authorities are appropriate in some circumstances: for example, as part of consultation processes where local views are being sought, or to promote the effective and efficient use of local services and facilities, or to attract tourists or investment. Publicity campaigns may also be an appropriate means of influencing public behaviour or attitudes on such matters as health, safety, crime prevention or equal opportunities.
19. Legitimate concern is, however, caused by the use of public resources for some forms of campaigns, which are designed to have a persuasive effect. Publicity campaigns can provide an appropriate means of ensuring that the local community is properly informed about a matter relating to a function of the local authority and about the authority's policies in relation to that function and the reasons for them. But local authorities, like other public authorities, should not use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy.

Dissemination

20. The main purposes of local authority publicity are to increase public awareness of the services provided by the authority and the functions it performs; to allow local people to have a real and informed say about issues that affect them; to explain to electors and ratepayers the reasons for particular policies and priorities; and in general to improve local accountability.
21. Information and publicity produced by the council should be made available to all those who want or need it. Local authorities should not discriminate in favour of, or against, persons or groups in the compilation and distribution of material for reasons not connected with the efficiency and effectiveness of issuing the publicity.

22. Where material is distributed on matters closely affecting vulnerable sections of the community – for example, the elderly – particular care should be taken to ensure that it is unambiguous, readily intelligible, and unlikely to cause needless concern to those reading, seeing or listening to it.
23. Local authority newspapers, leaflets, other publicity distributed unsolicited from house to house and information on websites are able to reach far wider audiences than publicity available on application to the council. Councils should give particular consideration to the use of electronic and other new media communication systems. However, councils should ensure that they do not rely solely on such mechanisms and that they do not exclude those without access or easy access to such systems.
24. Such publicity should be targeted as appropriate for its purposes, taking particular care with material touching on politically controversial issues.
25. There is no paragraph 25.
26. Local authority newspapers or information bulletins are a special case. They are often a cost-effective means of disseminating information, or facilitating consultation and can provide a means for local people to participate in debate on decisions the council is to take. The advantage of using websites and other information technology for consultations should also be considered. Inevitably such publications will touch on controversial issues and where they do they should treat such issues in an objective and informative way, bearing in mind the principles set out in paragraphs 11-19 of the Code.
27. Where it is important for information to reach a particular target audience, consideration should be given to using the communications networks of other bodies, for example those of voluntary organisations, and making use of electronic communication systems.

Advertising

28. Advertising, especially on billboards or on television and radio, is a highly intrusive medium. It can also be expensive. It may however provide a cost-effective, efficient means of conveying public information to the widest possible audience. Advertising on local radio networks has, for example, been used as a relatively inexpensive means of telling potential clients about local authority services. Advertising can also be the most cost-effective means of publicising a local authority's activities on promoting the social, economic and environmental well-being of the area.
29. The primary criterion for decisions on whether to use advertising should be cost-effectiveness.

Agenda Item 10

30 | Communities in Control: Real people, real power

30. Advertisements are not normally likely to be appropriate as a means of explaining policy or commenting on proposals, since an advertisement by its nature summarises information, compresses issues and arguments, and markets views and opinions.
31. Advertising in media which cover an area significantly wider than that of the authority is not likely to be an appropriate means of conveying information about a local authority's policies as opposed to attracting people to the authority's area or to use its facilities.
32. The attribution of advertising material leaflets and other forms of publicity that reach the public unsolicited should be clearly set out.
33. It is not acceptable, in terms of public accountability, to use the purchase of advertising space as a disguised means of subsidy to a voluntary, industrial or commercial organisation. Such support should be given openly through the normal grant arrangements. However, the conditions attached to a grant may require the provision of publicity, including publicity for the work of the authority.
34. Any decision to take advertising space in a publication produced by a voluntary, industrial or commercial organisation should be made only on the grounds that it provides an effective and efficient means of securing the desired publicity.
35. Local authorities should never use advertising as a means of giving financial support to any publication associated with a political party.

Recruitment Advertising

36. Local authorities have respected in their staff employment policies the tradition of a politically impartial public service. Their recruitment publicity should reflect this tradition, and the fact that local authority staff are expected to serve the authority as a whole, whatever its composition from time to time.
37. The content of recruitment publicity and the media chosen for advertising job vacancies should be in keeping with the objective of maintaining the politically independent status of local authority staff.
38. Advertisements for staff should not be placed in party political publications.

Individual Councillors

- 39.** Publicity about individual councillors may include the contact details, the positions they hold in the Council (for example, member of the Executive or Chair of Overview and Scrutiny Committee), and their responsibilities. Publicity may also include information about individual councillors' proposals, decisions and recommendations only where this is relevant to their position and responsibilities within the Council. All such publicity should be objective and explanatory, and whilst it may acknowledge the part played by individual councillors as holders of particular positions in the Council, personalisation of issues or personal image making should be avoided.
- 40.** Publicity should not be, or liable to misrepresentation as being, party political. Whilst it may be appropriate to describe policies put forward by an individual councillor which are relevant to her/his position and responsibilities within the Council, and to put forward her/his justification in defence of them, this should not be done in party political terms, using political slogans, expressly advocating policies of those of a particular political party or directly attacking policies and opinions of other parties, groups or individuals.

Elections, referendums and petitions

- 41.** The period between the notice of an election and the election itself should preclude proactive publicity in all its forms of candidates and other politicians involved directly in the election. Publicity should not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them with individual members or groups of members. However, it is acceptable for the authority to respond in appropriate circumstances to events and legitimate service enquiries provided that their answers are factual and not party political. Members holding key political or civic positions should be able to comment in an emergency or where there is a genuine need for a member level response to an important event outside the authority's control. Proactive events arranged in this period should not involve members likely to be standing for election.
- 42.** The Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000 (which apply under the Local Government Act 2000 to county councils, district councils and London borough councils) prohibit an authority from incurring any expenditure to:
- publish material which appears designed to influence local people in deciding whether or not to sign a petition requesting a referendum on proposals for an elected mayor
 - assist anyone else in publishing such material or
 - influence or assist others to influence local people in deciding whether or not to sign a petition

Agenda Item 10

32 | Communities in Control: Real people, real power

Publicity in these circumstances should, therefore, be restricted to the publication of factual details which are presented fairly about the petition proposition and to explaining the council's existing arrangements. Local authorities should not mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view in relation to petitions generally or on a specific proposal.

- 43.** County councils, district councils and London borough councils should ensure that any publicity about a referendum under Part II of the Local Government Act 2000 (the 2000 Act) either prior to or during the referendum period is factually accurate and objective. The referendum period means the period beginning with the date on which proposals under Part II of the 2000 Act are sent to the Secretary of State and ending with the date of the referendum. The publicity should not be capable of being perceived as seeking to influence public support for, or opposition to, the referendum proposals and should not associate support for, or opposition to, the proposals with any individual or group. Local authorities must conform with any specific restrictions on publicity activities which are required by Regulations under section 45 of the 2000 Act.

Assistance to others for publicity

- 44.** The principles set out above apply to decisions on publicity issued by local authorities.

They should also be taken into account by local authorities in decisions on assistance to others to issue publicity. In all such decisions local authorities should, to the extent appropriate:

- (a) incorporate the relevant principles of the Code in published guidance for applicants for grants;
 - (b) make the observance of that guidance a condition of the grant or other assistance;
 - (c) undertake monitoring to ensure that the guidance is observed.
- 45.** It is appropriate for local authorities to help charities and voluntary organisations by arranging for pamphlets or other material produced and paid for by the organisation to be available for collection by the public in public libraries and other suitable locations. Such material should not offend against any legal provision, (authorities may be able to draw on their powers of well-being in section 2 of the Local Government Act 2000) but (subject to this) any such facility should be made available on a fair and equal basis.

Annex D

Consultation Code of Practice

- A.1 The Government has adopted a code of practice on consultations. The criteria below apply to all UK national public consultations on the basis of a document in electronic or printed form. They will often be relevant to other sorts of consultation.
- A.2 Though they have no legal force, and cannot prevail over statutory or other mandatory external requirements (eg under European Community Law), they should otherwise generally be regarded as binding on UK departments and their agencies; unless Ministers conclude that exceptional circumstances require a departure.

The Consultation Criteria

- Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy
 - Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
 - Ensure that your consultation is clear, concise and widely accessible.
 - Give feedback regarding the responses received and how the consultation process influenced the policy.
 - Monitor your department's effectiveness at consultation, including through the use of a designated consultation coordinator.
 - Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.
- A.3 The full consultation code of practice may be viewed at:
www.bre.berr.gov.uk/regulation/consultation/code/index.asp

Agenda Item 10

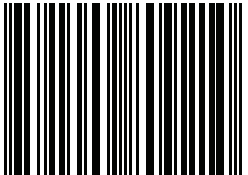
34 | Communities in Control: Real people, real power

- A.4 Are you satisfied that this consultation has followed these criteria? If not, or you have any other observations about ways of improving the consultation process please contact:

Consultation Co-ordinator
Communities and Local Government
Zone 6/H10
Eland House
Bressenden Place
London
SW1E 5DU

email: consultationcoordinator@communities.gsi.gov.uk

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