# **Best value standards and intervention – a statutory guide for best value authorities: government response to consultation**

**Introduction**

1. During the summer of 2023 the Department for Levelling Up, Housing and Communities (DLUHC) conducted a public consultation on statutory guidance for local authorities in England, including combined authorities and combined county authorities, on the Best Value Duty.
2. The consultation document posed a series of questions about the scope of the statutory guidance, the principles upon which the government bases its approach to ensuring compliance with the Best Value Duty, the standards expected by the department and the models of intervention at the Secretary of State for Levelling Up, Housing and Communities’ disposal in the event of failure to uphold these standards. The full consultation document can be read online.[[1]](#footnote-2)
3. The consultation was launched on 4 July 2023 and closed on 15 August 2023. Members of the public, local authorities and other interested parties were able to respond through an online response tool, by email and by post. There were 76 responses to the consultation in total. A list of all respondents is at Annex A.
4. What follows is a high-level summary of these consultation responses and the UK government’s response to these, organised under each question of the consultation. In the government response sections, ‘we’ refers to the UK government.
5. The statutory guidance was amended following consultation and issued on 8 May 2024. Local authorities are now required to have regard to this guidance on best value standards and intervention.

**Scope of the guidance**

Questions 1-4 relate to information about the respondents.

**Question 5: Do you agree that the principles in Section 3 should apply to all best value authorities?**

**Question 6: This statutory guidance has been developed principally for local councils, including combined authorities. However, all best value authorities should be mindful of the principles set out in this document. Would further published guidance be welcome for other best value authorities to set out the application of Best Value Duty given their specific responsibilities, structures and context?**

**Summary of responses to questions 5 and 6**

1. Most respondents who responded to these questions (67/70) thought the seven principles[[2]](#footnote-3) upon which the government bases its approach to ensuring compliance with the Best Value Duty should apply to all best value authorities. This, respondents felt, would allow for a consistent understanding and approach across organisations, and would play a useful role in managing partnerships and relationships with organisations funded by the authority or otherwise in receipt of public funding. Some respondents also suggested that the scope of the guidance should go further and apply to all authorities funded in part through Council Tax. This would include sizable parish and town councils with the general power of competence, as well as all bodies under the jurisdiction of the Local Government and Social Care Ombudsman. In this respect, respondents emphasised the importance of aligning the assurance frameworks of other government departments with these principles.
2. While many felt unable to comment on the needs of other best value authorities, a sizable majority of respondents (43/59) thought further published guidance on the Best Value Duty would be welcome but not essential, since the guidance principles can still be considered in the context of other authorities. Respondents suggested sub-national transport bodies, waste authorities and the Broads Authority may find bespoke guidance particularly helpful but recognised that other government departments may be better placed to lead on this.
3. Three respondents did not agree that the guidance should apply to all best value authorities, in particular His Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) and the National Fire Chiefs Council (NFCC). Respondents pointed out that HMICFRS has a similar intervention programme (“Engage”) and raised concern with the possibility of both DLUHC and HMICFRS imposing their intervention schemes on a fire authority at the same time, particularly if DLUHC and HMICFRS’s priorities were not aligned. Respondents also noted the practical approach taken by those police forces held to account by an elected local policing body (all forces excluding the City of London), who can only be subject to the Engage scheme and suggested that a similar approach should be applied to fire authorities.

**Our response to questions 5 and 6**

1. The government’s view is that all best value authorities should be mindful of the principles set out in this document in order to ensure they deliver the Best Value Duty, defined in Part 1 of the 1999 Act. In exceptional cases, the Secretary of State may intervene in best value authorities other than local authorities as outlined in the guidance where there is clear and significant failure. The Secretary of State would engage with the relevant Secretary of State and, where appropriate, His Majesty’s Chief Inspector of Constabulary and Fire & Rescue Services prior to any intervention, and such an intervention would recognise the existence of other inspection and intervention regimes across government.

**Guiding principles (Section 3)**

**Question 7: Do you agree with the seven principles proposed in Section 3?**

Summary of responses to question 7

1. Most respondents (56/71) welcomed the seven guiding principles upon which the government bases its approach to ensuring compliance with the Best Value Duty. Respondents were particularly supportive of the principle of respecting **local accountability** and welcomed confirmation that, as far as possible, government will look to existing local checks and balances to mitigate risks of failure. Many respondents acknowledged how the vast majority of councils are well-run and that significant and extensive failure is rare. It is therefore right that a proportionate approach is taken by government in instances where there are significant and extensive indications of local failure. One national organisation suggested that the principle’s narrative could be strengthened by mentioning the ways in which a best value authority is accountable, such as financial statements and the Annual Governance Statement.
2. Respondents also appreciated the emphasis on **continuous improvement** rather than on perfect outcomes, although they recognised that good intentions alone will not deliver change. Some respondents asked for this principle to be more clearly defined, particularly in relation to how authorities capture lessons learnt and document how they are delivering improvements against any recommendations, to ensure a common understanding and means of monitoring across authorities. Respondents were very clear that continuous improvement is an objective that is becoming increasingly harder for councils to deliver given the current financial climate. Others pointed out that service performance levels may vary depending on local priorities and, providing statutory requirements are being met, this principle should be considered with the principle of local accountability.
3. The majority of respondents agreed with the principle of **openness to challenge and support**. The Local Government Association noted how councils that are open to external challenge are more likely to make progress in addressing areas for improvement.
4. Respondents felt it was helpful that government is clear in its **expectations** of local authorities and the criteria it will use to interpret compliance with the Best Value Duty. However, many respondents stressed that the application of these expectations should be realistic and consider the financial constraints within which local authorities operate. Some respondents questioned the emphasis on securing improvement “in all” best value themes, “on an ongoing basis and at the necessary pace”. They felt this expectation to be overambitious in the current economic climate and did not allow for the prioritisation of one area over another in any given year, which may be the result of local political decisions or dependencies between improvement activities that require sequencing.
5. Many respondents recognised **prevention** as one of, if not *the* *most* important guiding principle, since preventing a local authority from falling into failure is the main purpose of this guidance. In its response the Local Government Association pointed out that, by enabling and promoting the value of engagement with sector-led improvement to councils, government can ensure that the number of times it needs to engage with authorities showing signs of non-compliance with the Best Value Duty are very few.
6. Respondents understood government’s position that local authorities are responsible for taking all reasonable steps to **meet the financial cost of failure** locally. However, many (15), including the Local Government Association, pointed out that “no-one has ever set out to fail deliberately”. Some respondents (7) remarked that this principle should not be applied in a manner that puts the safe and sustainable delivery of statutory services at risk. Compelling a local authority to fund all costs following a failure, these respondents concluded, could have an adverse impact on local communities and vulnerable people. Consideration of moral hazard must therefore be balanced by a consideration of the principle of provider of last resort. Other respondents (4) remarked that external factors outside the control of an authority can have a significant impact on delivery of the Best Value Duty and, in these circumstances, expecting them to meet this cost of failure would be unfair. Further thought, they noted, therefore needs to be given to how local authorities that are already under significant financial pressure would be able to pick up this cost without falling into further difficulties. Intervention, they concluded, must offer a pathway towards a sustainable future.
7. Finally, on **the lifecycle of an intervention,** there was strong support from respondents forde-escalation and ensuring a clear exit strategy is in place at the earliest opportunity. Exit strategies are discussed in more detail at Section 8 of the guidance. A small number of respondents (2) raised concern with the government’s default presumption that failure may be more pervasive in a failing local authority, requiring the need for broad default powers to be provided to commissioners on appointment. They felt this may create significant additional work, upheaval and turmoil within an authority where this may not be necessary.

**Our response to question 7**

1. We welcome the sector’s support for the guiding principles upon which the department has based its approach to ensuring compliance with the Best Value Duty. We share the sector’s commitment to local accountability and confirm that, as far as possible, government will look to existing local checks and balances in the system to mitigate risks of failure.
2. To better reflect the evolving remit of the Office for Local Government (Oflog), we have emphasised the importance of authorities using Oflog’s Local Authority Data Explorer to benchmark against similar authorities and of participating in its work to identify and share best-practice across the sector to the description of the guiding principle “openness to challenge and support”.
3. The government funds various sector-led improvement initiatives to support the sector and expects local authorities to participate in those available to them. This includes corporate and finance peer challenges and improvement support for specific service areas such as in social care, public health, planning and transport.
4. In addition, since 2020, the government has agreed to provide a number of local authorities with support via the Exceptional Financial Support framework, following requests from these local authorities for assistance to manage financial pressures that they considered unmanageable. The support is provided on an exceptional basis, and on the condition that each local authority is subject to an external assurance review on their financial position. In some of these cases, government has taken action following evidence of best value failure.
5. The government also recognises the desire for certainty over the longer-term funding position. In 2022, the government published the local government finance policy statement, providing councils greater certainty on key aspects of their funding for the next two years. Spending decisions beyond 2024-25 are a matter for the next spending review, in 2024. We know that local authorities value multi-year certainty, as this allows them to plan spending over the longer term. It is the Government’s intention to return to multi-year settlements in the next Parliament, when circumstances allow.
6. The Secretary of State’s judgement on whether the Best Value Duty is being met by individual authorities will be made based on the circumstances of each case, including an appreciation of the financial pressures within which is experiencing.
7. Regarding meeting the cost of failure, it is important that the government does not reward or incentivise failure and that there is local accountability for decision making. The financial cost of failure should, therefore, be met locally, as far as possible. In practice, this means that this principle should not be applied in a manner that puts the safe and sustainable delivery of statutory services at risk.
8. While we understand the concern a few respondents had regarding the decision to provide default powers to all commissioners on appointment, lessons learned from past interventions have shown that expanding rather than reducing the scope of an intervention over time has a negative effect on an authority’s confidence and momentum with progress. The government therefore believes that default commissioner powers, which may not need to be used, will empower commissioners to accelerate the discovery phase of an intervention and promptly address any additional issues that may arise in order to accelerate improvement. This will ultimately support the intervention ending within the fastest possible timeframe and is therefore in an authority’s best interest. We have renamed this guiding principle from “Default commissioner powers and de-escalation” to “The lifecycle of an intervention” to better reflect the content of the section, while maintaining the emphasis on de-escalation and a clear exit strategy in the accompanying paragraph.

**Defining best value (Section 4)**

**Question 8: Do you agree with the seven best value themes?**[[3]](#footnote-4)

**Summary of responses to question 8:**

1. The majority of respondents (66/70) agreed with the seven best value themes identified in the guidance, noting how they provide helpful clarity to the sector on what constitutes best value and enable a better understanding of what guides the department’s decision on whether to intervene in a local authority. One respondent pointed out that there may be an opportunity for the Local Government Association to align its Key Lines of Enquiry in corporate peer challenges with these themes. While some local authorities (5) objected to the position that the indicators of potential failure should not be taken as an exhaustive list, the Chartered Institute of Public Finance and Accountancy (CIPFA) stated that it supports this approach and it is consistent with that taken in the development of the CIPFA Resilience Index.
2. CIPFA also noted a high degree of familiarity with the seven best value themes and emphasised the importance of recognising any overlap with other key sector documents, such as CIPFA’s Good Governance Framework and Financial Management Code. Other respondents (4) raised concerns with the potential for local authorities to duplicate the work they already do when producing their Annual Governance Statements. They asked government to clarify the relationship between this statutory guidance and Annual Governance Statements.
3. Respondents felt the mix of quantitative and qualitative elements within the suggested seven best value themes was positive. However, some respondents (11) were concerned by the potentially subjective nature of some indicators, noting how this may create a lack of consistency in how authorities assess themselves against them. These respondents asked for greater clarity on the evidence requirements of each best value theme and whether government expects councils to complete a self-assessment against the indicators set out in Section 4. Others, including the Local Government Association, noted that some indicators may be difficult to measure or quantify and remarked that while, some of the indicators listed in Section 4 may be sufficient on their own to lead to best value failure, others would not unless associated with other poor practices. Respondents welcomed the government’s position, outlined at paragraph 24 of the guidance that *“no single metric automatically leads to inspection or intervention”* and decisions are *“based on a holistic judgement of all available information”*, including an understanding of the wider context local authorities are operating within.

**Our response to question 8**

1. The government welcomes the sector’s support for the seven best value themes on which its approach to ensuring compliance with the Best Value Duty is based and the guidance has been updated to clarify definitions based on the feedback received in the consultation.
2. On monitoring and evidencing compliance with the Best Value Duty, there is no statutory requirement for local authorities to detail how they are meeting the Best Value Duty. The guidance is statutory guidance, which means local authorities are required to have regard to it. However, local authorities should demonstrate, through their Annual Governance Statements, that they are making arrangements to secure continuous improvement in all these areas on an ongoing basis and at the necessary pace. All best value authorities should be mindful of the principles in the guidance to make sure they understand how to fulfil the Best Value Duty, the standards expected by the department and the models of intervention at the Secretary of State’s disposal in the event of failure.
3. The government acknowledges that some respondents objected to the position that the indicators of potential failure should not be taken as an exhaustive list. The government’s view is that our approach requires some flexibility to address the unique local circumstances in each authority. The guidance is also clear that no single metric automatically leads to inspection or intervention and decisions are based on a holistic judgement of all available information, including an understanding of the wider context local authorities are operating within.

**Questions 9 - 15: Do you agree with the suggested key characteristics of a
well-run authority and key indicators of failure in relation to continuous improvement / leadership / governance / culture / efficient use of resources / service delivery / partnerships and community engagement?**

**Summary of responses to questions 9**

1. Continuous improvement:58 of a total 68 respondents agreed with the description and indicators used to illustrate this theme. However, some respondents (10) reiterated earlier concerns with the expectation to secure continuous improvement across all functions on an ongoing basis and at pace. They felt this expectation was overambitious in the current financial climate and did not allow for the local prioritisation of one area over another in any given year. Respondents also pointed out that continuous improvement should be “considered” and linked to a clear and achievable positive outcome, rather than an end in itself. These respondents pointed out how “a constant chasing of radical change” (specifically in relation to commercial ventures) has been at the heart of some local authority failures. The Local Government Association pointed out that that while all authorities should have measures to ensure they are continuously improving and innovating (within the context of appropriate risk management), it will not always be appropriate or necessary for authorities to have a transformation programme or separate improvement plans.
2. Respondents suggested additional characteristics of a well-functioning authority in relation to the importance of an authority’s scrutiny function and Annual Governance Statement in identifying areas for continuous improvement, the use of performance indicators (including Oflog metrics) to manage risk or to benchmark against similar authorities and the importance of resident engagement to inform improvement. Respondents also identified a lack of good quality data or insight to understand services and the existence of multiple and/or uncoordinated plans for improvement as indicators of potential concern.

**Our response to question 9**

1. While the government recognises the concerns some respondents had with the expectation that best value authorities should make arrangements to secure improvement “in all” best value themes, “on an ongoing basis and at the necessary pace”, its position is that local authorities should – and a large proportion do – continuously monitor and seek to improve their functions as a core requirement. Many well-functioning authorities have an up-to-date corporate plan, an improvement plan, a robust scrutiny function, performance indicators, external reviews, benchmarking and an Annual Governance Statement that adequately addresses mistakes and poor performance.
2. To clarify the importance of local priorities, we have updated the guidance to address concerns that the original phrasing does not allow for the local prioritisation of one area of spend over another in any given year. We have also included reference to Oflog’s Local Authority Data Explorer, which facilitates performance benchmarking between authorities, and participation in Oflog’s programme of webinars as additional characteristics of a well-functioning authority.

**Summary of responses to question 10**

1. Leadership: 60 of a total 71 respondents agreed with the description and indicators used to illustrate this theme. There was some disagreement with the recommendation that all officers with statutory responsibility should report directly to the Chief Executive. Respondents (6) pointed out that it is for the Head of Paid Service, not government, to decide how a council’s workforce should be structured. Instead, the guidance should focus on the desired outcome of their working arrangement: that statutory officers, in particular the “golden triangle” of Head of Paid Service, Section 151 Officer and Monitoring Officer, should work closely and effectively together, have a position within the top tier of governance and have access to the highest levels of council decisions, while ensuring governance standards remain high.
2. Another area of disagreement was the inclusion of all-out elections as a characteristic of a well-functioning authority. Many respondents (20) felt strongly that a local authority’s approach to elections should be a matter of local democracy. The Local Government Association highlighted that, while it would be appropriate for councils experiencing significant challenges to consider whether annual campaigning is hindering improvement and to take action accordingly, many councils with multiple elections during the four-year cycle are well-run.

**Our response to question 10**

1. On the relationship between statutory officers and the structure of a council’s workforce, we have updated the guidance to reflect the responses and emphasise the importance of effective communication between the Head of Paid Service, Section 151 Officer and Monitoring Officer.
2. While we recognise respondents’ view that a local authority’s approach to elections should be a matter of local democracy, the government’s view is that all-out elections within the four-year cycle can enhance political stability and reduce the disruption that can be caused by ongoing campaigning. The wider context would always be part of the assessment so this would only factor into the government’s decision to inspect or intervene if there were other indicators of failure across the seven themes.

**Summary of responses to question 11**

1. Governance:63 of a total 69 respondents agreed with the description and indicators used to illustrate this theme and concluded that good governance should be the backbone of any well-run local authority. Respondents (5) questioned whether “credible allegations of corruption and maladministration” should be included as an indicator of potential failure. They remarked how the existence of such allegations, even if they are credible, is not necessarily an indication of failure. A lack of appropriate action by the local authority in response to such allegations, however, would be a cause for concern. There was also some discussion among respondents (3) regarding the suggestion that the visibility of political or ideological activity by council officers should be included as an indicator of potential failure. Respondents clarified that only some council roles are politically restricted under existing legislation on political neutrality. To suggest that this measure be applied to all council staff, irrespective of their current legal position, would therefore be a significant overreach.

**Our response to question 11**

1. We have updated the guidance to incorporate the views of respondents on the response to allegations of corruption and political activity by council staff in posts that are politically restricted.

**Summary of responses to question 12**

1. Culture:60 of a total 67 respondents agreed with the description and indicators used to illustrate this theme. These respondents were also happy to see culture articulated as a specific best value theme, given the prominence poor organisational culture has played in recent examples of failure in the sector.
2. In their response, CIPFA observed how it is notoriously difficult to measure culture without it being a subjective judgement and therefore open to dispute. It will therefore be important, they note, that there is a clear understanding within the sector regarding the appropriate and proportionate levels of evidence that may be required. Some respondents (6) also pointed out that, in the absence of adequate powers to address breaches of the code of conduct which fall below the bar of criminal activity, no council has appropriate processes in place to address harassment and bullying.

**Our response to question 12**

1. The government welcomes the support for this section and notes the views on the subjective nature of assessing the culture of an organisation. The government will assess all available evidence, including the findings of external reports and information that the council provides. This will then form part of the holistic assessment across all seven best value themes.
2. Local authorities may consider a variety of sanctions to breaches of codes of conduct including issuing a formal censure, recommending that the member is removed from positions of responsibility or committees, recommending that council withdraws facilities the authority has provided and, where relevant, recommending that the member is removed from their role as leader of the authority or political group. An environment that allows widespread breaches of codes of conduct and refusal to investigate alleged breaches of codes of conduct will also factor into the government’s assessment of whether a council is failing their Best Value Duty.

**Summary of responses to question 13**

1. Efficient use of resources:72 of a total 76 respondents agreed with the description and indicators used to illustrate this theme. Some respondents (6) discussed whether “inadequate reserves” should be included as an indicator of potential failure as they felt what constitutes an appropriate level of reserves and general fund balances is subjective and will depend on the specific circumstances of a local authority. One respondent suggested that the “lack of a regular review of the adequacy of reserves” would be a more appropriate indicator, since it is better framed at ensuring there is a regular and documented process for assessing the adequacy of a council’s reserves, linked to an assessment of the risk environment. Respondents (4) also questioned whether “consistent reliance on reserves to balance an outturn position” should be included as an indicator of potential failure because local authorities frequently use reserves to create in-year flexibility as part of budget setting. Instead, one respondent suggested amending this indicator to “*the unplanned use of* reserves in-year to balance an outturn position”.
2. Respondents suggested additional indicators of potential failure, including the late publication of the financial statements or any audit opinion that is not unqualified (where this has not been caused by a failure in audit supply), and a lack of response to audit recommendations. A few respondents (3) also suggested that this best value theme should focus more on physical resources – people and assets, including specific reference to authorities having appropriate workforce strategies which demonstrate how staff will be deployed to deliver the services planned for the future and effective performance management.

**Our response to question 13**

1. The guidance has been updated to reflect the feedback on inadequate reserves, the reliance on reserves and financial statements/audit.
2. We have updated the guidance to highlight the importance of workforce and fixed assets being managed efficiently and effectively, with clear strategies demonstrating how services will be delivered in the future and effective performance management. The government’s view is that workforce strategies should secure value for money for local residents and taxpayers. We have also included “Council staff undertaking part-time work for full-time pay without compelling justification” as an indicator of potential failure. Non-statutory guidance on four day working week arrangements was published in October 2023[[4]](#footnote-5)making it clear councils should not be adopting such practices. The government does not believe this practice delivers local taxpayers’ value for money and is therefore unlikely to demonstrate adherence to the Best Value Duty.

**Summary of responses to question 14**

1. Service delivery:60 of a total 69 respondents agreed with the description and indicators used to illustrate this theme. Some respondents (4), including the Local Government Association, pointed out that while all authorities should benchmark their provision with comparable authorities, it is for a council’s political leadership to make judgements about the levels at which services are provided. It is therefore reasonable for service standards to differ from area to area based on democratic choices made in response to local priorities, providing statutory requirements are being met. Other respondents (3) pointed out that a high level of complaints to the Local Government and Housing Ombudsman may not in itself indicate failure. It may be that the authority encourages feedback and complaints as part of its customer experience approach and/or is particularly transparent about the existence and role of the Ombudsman, both of which are to be encouraged. A more helpful indicator of failure would focus on the uphold rate and the rate of compliance with recommended remedies rather than the number of complaints made.

**Our response to question 14**

1. The guidance has been updated to reflect the local democratic element of service delivery and that the uphold rate of Ombudsman cases would indicate potential failure. We have also now referenced Oflog’s Local Authority Data Explorer in the description of this best value theme.

**Summary of responses to question 15**

1. Partnerships and community engagement:56 of a total 65 respondents agreed with the description and indicators used to illustrate this theme. Some respondents (4) asked whether this theme could more effectively demonstrate the value and positive impact working with local partners has in achieving council outcomes. Others (3) requested that the theme makes more explicit reference to the statutory requirements for local authorities to engage with various stakeholders and the 2015 Revised Best Value Guidance on how authorities should work with voluntary and community groups, and small businesses[[5]](#footnote-6). This guidance places a requirement on local authorities to consider the social value of contracts when reviewing service provision and to consult effectively at all stages of the commissioning cycle. Respondents also suggested additional characteristics of a well-functioning authority in relation to promoting co-production with residents, which aligns with the expectations of wider regulators such as Ofsted and the Care Quality Commission, and on joint working with other public service providers and tiers of government, including DLUHC.

**Our response to question 15**

1. The guidance has been updated to reflect the positive impact that working with local partners can have and the statutory requirement to engage with certain stakeholders.

**Question 16: The seven themes have a description, characteristics of a well-run authority and indicators of potential failure. Which, if any, of the proposed characteristics and indicators of failure do you think are priorities and the strongest indicators of best value?**

**Summary of responses to question 16**

1. A large proportion of respondents (29 out of 61) felt it would not be appropriate to prioritise the characteristics/indicators or best value themes. Instead, recognising the interdependencies between them, they “should be seen as a collective suite, not a hierarchical list”. If certain indicators or characteristics are given greater importance, they noted, this may result in perverse behaviours as local authorities could focus their attention and limited resources in these areas to the detriment of others. These respondents urged the department not to take a single indicator or theme in insolation and to make a rounded, contextualised, judgement.
2. Many respondents (16), including the Local Government Association, pointed out that not all the characteristics and indicators listed in the guidance were of equal weight. They were therefore able to identify those which they believed to be the strongest indicators of best value. These included “openness to external challenge”, “clear leadership demonstrated through a realistic and robust corporate plan”, “a robust medium-term financial strategy with consistent delivery of budget plans”, “compliance with legislative, regulatory and constitutional requirements”, “effective risk management”, “effective use of performance management information” and “robust plans to address service failure, where applicable”. CIPFA noted how, over the past 24 months, the most common areas that had needed further scrutiny within the sector had been governance, reserves, over-optimistic savings plans, commercial arrangements, investments, and leadership. The Local Government and Social Care Ombudsman concluded that good complaint management and effective systemic improvement are vital indicators of an authority that is focused on its residents, provides best value and employs good governance.
3. Some (22) responded to this question by prioritising the seven best value themes. Many respondents (10) considered governance, leadership and culture to be the strongest themes since they underpin other themes like service delivery and use of resources and can drive best value throughout the organisation. The importance of these themes, one respondent observed, is strengthened by them being the three things that a local authority has the most control over. In contrast, the other themes can be affected by factors outside the control of the local authority such as service delivery and the quality of life, or culture within partnership organisations which can impact on how effectively we can work with them.

**Our response to question 16**

1. The government notes how respondents were split on whether it would be appropriate to prioritise the indicators of failure or best value themes. While we recognise that some indicators or themes cut across and underpin others, each local area will have its own unique history and circumstances that will need to be considered in a holistic assessment of all evidence. This means that some indicators may be present more often in authorities failing their Best Value Duty but the finer detail of each case will be different.

**Question 17: Many of these indicators are measured by metrics but there is scope to identify more to more accurately assess best value. What do you think are the top most appropriate quantitative metrics for monitoring best value, against the indicators in Section 4?**

**Summary of responses to question 17**

1. Some respondents (14) pointed out that councils collect and report various quantitative corporate health metrics that could be used to assist the monitoring of best value. Examples include delivery against strategic priorities, spend in relation to budget, workforce information such as sickness and absence rates, customer service information including numbers of complaints upheld/responded to on time, risk and management reports. However, a few respondents (4) noted how these metrics are often collected and measured differently by councils, making it difficult to standardise and benchmark against.
2. Regarding the characteristics / indicators described in the draft guidance, some respondents (7) pointed out that many cannot be measured quantitatively, are quite subjective in nature and are therefore difficult to compare. Or, where metrics are possible, they are not already captured and measured by local authorities.
3. Most respondents (23), including the Local Government Association, felt that an assessment of best value requires consideration of a wide range of complex and inter-related factors, many of which will not be quantitative metrics. While councils will routinely consider key performance indicators as part of their own assurance work, these, respondents noted, will only give part of the picture, and must be interpreted through an understanding of the wider local context, along with consideration of other key factors such as the robustness of the Medium-Term Financial Strategy, the extent of transparency and openness to challenge. Respondents were pleased to read in the guidance that, where the department becomes aware of quantitative or qualitative indicators of potential concern being met, officials from the department will engage with the local authority to understand the local context.

**Our response to question 17**

1. The government welcomes the suggestions of different appropriate quantitative metrics for monitoring best value. Any use of these metrics would form part of the wider assessment of all available evidence and context that would inform the government’s decision. As outlined in the guidance, this would include a conversation with the authority to understand local circumstances.

**Question 18: The guidance sets out a number of characteristics and indicators across the seven themes in Section 4. If certain characteristics or indicators were to be identified as key, and more important than others in achieving Best Value, what would the risks be to this approach?**

**The department is mindful of proportionality and the need to ensure the full context and circumstances of each case is taken into account, and is clear that no single characteristic or indicator automatically results in actions relating to the use of best value powers. How could any risks be further mitigated?**

**Summary of responses to question 18**

1. Respondents were asked what the risk would be in identifying certain characteristics or indicators as being more important than others in achieving best value. Respondents (61) identified the following risks:
* Local authorities may focus their attention and limited resources solely on the indicators highlighted as a priority to the detriment of others, many of which overlap and are interdependent.
* A focus on what would be national metrics, potentially representing national priorities, may limit the opportunity for local strategy to be developed according to local need and may also limit local accountability.
* A narrower focus would provide a partial and potentially skewed or incorrect view of whether a local authority is complying with its Best Value Duty.
* A narrower focus does not allow for an understanding of local context and may fail to recognise legitimate differences in local priorities and pressures that influence the decisions that a local authority takes.
* Potentially skewing the measurability of best value towards those outputs that can be measured and quantified risks devaluing the importance of the very characteristics this guidance seeks to reward and that are essential to the best value themes of Leadership, Governance and Culture.
* Selection of the “most important” indicators may be based on what caused some authorities to fail in the past and may miss different, new issues which could cause other authorities to fail in the future.
1. In terms of how these risks could be mitigated, respondents (12) stressed the importance of ensuring that the full context and circumstances of each case is considered when assessing an authority’s compliance with the Best Value Duty. In this regard, respondents welcomed recognition in the guidance that there is no single version of “good”. Respondents (8) also appreciated the department’s commitment to early engagement with councils demonstrating early indications of failure to prevent challenges from escalating and to identifying appropriate support. Respondents also stressed the importance of government keeping in mind the broad variety of risks facing local authorities and avoid focusing too much on just one type of failure.

**Our response to question 18**

1. The government acknowledges the different risks outlined by respondents and has carefully considered these. This has informed the government’s view that there would be significant risks to highlighting some indicators over others and the guidance will reflect this.
2. The government welcomes the recognition of the work that has been done to mitigate risk and recognises the importance of avoiding focusing on only one type of failure.

**Assurance and early engagement (Section 5)**

**Question 19: Are you happy with the level of clarity and detail in the description of statutory and non-statutory Best Value Notices?**

**Summary of responses to question 19**

1. The majority of respondents (55/67) were happy with the level of clarity and detail in the description of non-statutory Best Value Notices (BVN) and those with the requirement to also provide information under section 230 of the Local Government Act 1972. Some respondents (2) asked whether the guidance could clarify which officer(s) of an authority would be contacted in the event of a BVN being issued. Others (4) requested greater clarity on the circumstances under which a BVN with the requirement to provide information under section 230 of the Local Government Act 1972 would be issued. Some respondents (7) voiced concern that a BVN, which requires a local authority to take action, is issued by an unelected official. They asked whether the guidance could clarify that one would only be issued following explicit direction by a minister.
2. More generally, a few respondents (3) asked whether the guidance could confirm that early engagement between the department and a local authority would initially be undertaken in private. Any challenges, they noted, should not be made public until a local authority has had the opportunity to respond to the concerns raised. This, they noted, would help build confidence and openness, and would provide space for the local context to be properly understood and considered.

**Our response to question 19**

1. We have updated the guidance to clarify that officials will only issue BVNs following a decision by a minister and to which council officers BVNs will be sent. We confirm that the early conversations with the department will be undertaken in private.

**Question 20: Besides those mentioned in Section 5, are there other ways in which the government could engage earlier with individual local authorities to prevent any challenges experienced from escalating?**

**Summary of responses to question 20**

1. Suggestions to engage and to facilitate further engagement included:
* Oflog’s “Early Warning Conversations”, particularly with local authorities that isolate themselves from the sector.
* Better utilise collaboration within the sector, for example local partners and/or nearest neighbours, to provide peer support and advice where early indicators suggest a potential failure.
* Continue to improve the audit regime to ensure audit reports identify areas of concern in a timely manner.
* Undertake meaningful dialogue with local authorities around their Annual Governance Statement, which should reference any challenges or opportunities the council is pursuing in seeking to secure best value.
* Require statutory officers to write to the Secretary of State to explain what action the council is taking in response to any qualification in an audit report.
* Gather intelligence from local MPs.
* Champion the use of civil servants with a geographic focus across government departments to support relationships with local authorities.
* Adopt of a more formal approach for facilitating earlier engagement (it is “currently too easy for people to opt out or game the peer system”).
* Ensure peer reviews focus on areas that need attention, rather than be at the discretion of local authority.
* Consider introducing a public notice of warning given by either the auditor or chief finance officer of a local authority, as an intermediate step or ‘yellow card’ before a s.114 notice.

**Our response to question 20**

1. The government welcomes the suggestions that would help prevent a council’s challenges from escalating at an earlier stage. Local authorities should take responsibility to address potential failures at the earliest opportunity and government will engage early with local authorities showing signs of not complying with the Best Value Duty, with the aim of preventing challenges from escalating.
2. As part of our work on early assurance with councils of concern, the department directly engages with authorities and analyses a wide range of data to continually review the health of local authorities’ governance, financial management processes, including commercial operations and the sustainability of authorities’ medium-term financial outlooks, and delivery of corporate and key services.
3. The development of Oflog will help to improve early engagement and we have updated the guidance with more detail on how Oflog will operate. Oflog does not have powers to intervene and aims to complement – not duplicate or conflict with – other mechanisms for warning and support in the wider local government ecosystem. Oflog’s early warning system will be comprised of desk-based analysis and early warning conversations with authorities. It will also have role in peer-to-peer learning through its webinars, in which small groups of local authorities of similar kinds can learn from each other.
4. An auditor’s statutory duty to report on value for money arrangements and their statutory audit powers (such as the power to make statutory recommendations or produce Public Interest Reports where necessary) are important mechanisms for assurance and for identifying areas of concern at an early stage, allowing councils to address them. While the timeliness of external audits has long been a requirement of the Code of Audit Practice, and there are already mechanisms by which auditors can flag concerns about financial failings, the National Audit Office's forthcoming consultation on changes to the Code will propose further measures to make reporting on local bodies’ arrangements to secure value for money more timely.

**Question 21: Based on lessons learned from interventions to date, the guidance proposes that where authorities are unable to correct failure in specific services, such as social care or education, for two years, this is potentially symptomatic of wider governance and leadership failure and the department should consider the authority's compliance with the Best Value Duty.**

**Do you agree that two years is a reasonable timeframe to consider whether an authority's service performance may impact its ability to deliver best value?**

1. There was a majority view among respondents (42/63) that two years should be sufficient for the authority to demonstrate ownership of and commitment to ongoing improvement, but not necessarily to correct failure entirely. Respondents felt that what is most important is an authority’s ability to demonstrate and evidence improvement and a positive trajectory, and its commitment to sustaining continuous improvement. The Local Government Association recommended the use of a corporate, governance or service peer review to assist the government in understanding whether that capacity is in place.
2. Of the 20 respondents that did not agree with this proposal, most (12) felt that a fixed time period of any length was too arbitrary an approach for government to take. Waiting two years may be too late for some, remarked CIPFA, but could be too early for others. Others (8) felt that two years was too short a period and pointed out how the issues leading to failure in a specific service can be incredibly complex and system-wide in their nature. They noted how the experience of programmes designed to turn around services with challenges or performance issues suggests that these can take a number of years to implement and move into full delivery. The timescale would also need to take account the timing of planned re-inspections by service regulators. Five respondents asked for clarity on how the department will define “correcting failure” in service areas.

**Our response to question 21**

1. There was a difference of views on whether two years is a reasonable timeframe but most respondents supported the government’s view that two years should be sufficient to demonstrate improvement. Over the two years, there would be an ongoing holistic assessment of progress and the department’s approach could escalate or deescalate in response to progress and/or changing local circumstances. There would be ongoing contact between the authority and department, and any evidence that the authority provides would be factored into the government’s assessment.

**Evidencing failure (Section 6)**

**Question 22: Is the description of a Best Value Inspection sufficiently clear?**

**Question 23: Is the description of independent reports sufficiently clear?**

**Summary of responses to questions 22 and 23**

1. Most respondents (56/63) agreed that the description in the guidance of a Best Value Inspection was sufficiently clear. One respondent questioned the description’s primary focus on compliance and identifying failure, and asked whether the inspectors could also provide recommendations to the authority on how to improve. Two respondents requested clarity on the steps leading up to the Secretary of State commissioning an inspection and asked how the seven-theme best value framework is applied by the department’s officials to inform the Secretary of State’s decision.

1. The majority of respondents (56/62) also agreed that the description of independent reports was sufficiently clear. They welcomed the principle behind the requirement for such a report: to have the evidence validated by an external party to the organisation.

**Our response to questions 22 and 23**

1. The guidance has been updated to acknowledge that a Best Value Inspection will also help determine the steps required by an authority to address the concerns or issues, either on their own or with the support of external intervention.
2. Decisions made using the best value framework will be based on a holistic judgement of all available information and considered engagement with authorities to understand the environment they are operating within and their capacity, capability and commitment to lead their own improvement. The department will always seek to operate in a manner consistent with general principles of public law, and will exercise its power lawfully, rationally, fairly, and compatibly with the human rights of those affected by their actions.

**Models of intervention (Section 7)**

**Question 24: Are the models of intervention described in this guidance clear in terms of description, purpose and scenario when they would be applied?**

**Summary of responses to question 24**

1. Most respondents (53/64) thought that the description in the guidance of the various models of intervention was clear. Some respondents (4) welcomed the inclusion of “sector led intervention” as a distinct model of non-statutory intervention, noting that it would require central co-ordination and will need to be appropriately funded. Another respondent requested greater clarify over the “minded to” period and process for submitting representations on the reasoning and evidence behind the proposed intervention, and on the proposed package itself.

**Our response to question 24**

1. The government welcomes the views that respondents provided on the models of interventions. We have expanded the description in the guidance of the “minded to” period that precedes statutory intervention in order to provide greater clarify.

**Exiting intervention (Section 8)**

**Question 25: Do you agree with the position that interventions should end as soon as an authority can demonstrate that it can independently sustain its journey of continuous improvement without support?’**

**Summary of responses to question 25**

1. There was overwhelming support (60/60 respondents) for the description of exiting interventions. Respondents agreed that local authorities should not be expected to be perfect before an intervention ends. They also supported the view that an intervention should only end once an authority is able to demonstrate it has the capacity and capability to independently sustain its continuous improvement journey, albeit with continuing sector support. Evidence to demonstrate this, respondents agreed, should include the achievement of previously agreed exit strategy milestones, the production of “a robust and comprehensive improvement plan” to provide assurance that the trajectory of improvement will continue, and evidence of sufficient capacity and capability in resources going forward.
2. Respondents also agreed on the importance of having a clear and approved exit strategy in place at the start of any intervention in order for an authority to understand the steps it needs to take and the goals it is working towards. Not only would this strategy help to maintain momentum with progress; it would also promote transparency with local residents/service users and prevent ‘mission creep’ and a lengthy period of uncertainly, which one respondent noted “may in itself cause further failure”.
3. Many respondents (16) emphasised the necessity for there to be a level of oversight for a period of 12 months after formal intervention measures end to assess whether improvements have been embedded and sustained. This could include an independent review at 12 months to provide external assurance of progress. One national organisation also suggested the potential for an external “critical friend” to provide support and guidance throughout this 12-month period, to ensure the authority maintains its journey of continuous improvement.
4. One respondent asked whether the guidance could be clearer on the respective roles and responsibilities of the local authority, commissioner(s) / chair of statutory improvement boards and the Secretary of State in making the decision for an intervention to end.

**Our response to question 25**

1. The government welcomes the support for the section on exiting interventions. The guidance has been updated to clarify the roles and responsibilities of the different parties involved in the decision to end an intervention and to provide more detail that incorporates the experience of ongoing interventions.

**Question 26: Are there any areas missing from the statutory guidance that you think would be helpful to include?**

**Summary of responses to question 26**

1. Respondents identified the following areas as missing from the statutory guidance and which require further clarification:
* How the guidance fits with existing guidance, for examplethe CIPFA/SOLACE Delivering Good Governance in Local Government Framework and the CIPFA Financial Management Code;
* The status of the 2015 Revised Best Value Statutory Guidance;
* Duties under Section 25 of the Local Government Act 2003 on the requirement to report on the robustness of the estimates made for the purposes of the calculation of the precept and agreeing a council’s budget; and
* Whether Statutory Officers have a responsibility to report to the department if they consider the local authority is not meeting its Best Value Duty.

**Our response to question 26**

1. The 2015 Revised Best Value Guidance remains in place and best value authorities should continue to have regard to this guidance, in addition to this new statutory guidance. We have clearly signposted the 2015 guidance in this new guidance, which has been published alongside the 2015 Guidance. We have also updated this new statutory guidance to highlight the role of notices made under section 25 of the Local Government Act 2003.
2. The government recognises the good practice highlighted in the CIPFA/SOLACE Delivering Good Governance in Local Government Framework and the CIPFA Financial Management Code and references these and other relevant guidance in this the statutory guidance.
3. Local government is independent of central government and councils are responsible for their own performance and improvement. While there is no formal requirement for statutory officers to report to the department if they consider the local authority is not meeting its Best Value Duty, this guidance recognises the importance of early engagement as a means of preventing any challenges experienced by the local authority from escalating. Statutory officers are therefore encouraged to engage constructively with the department at an early stage to provide an opportunity for the department to understand their organisational challenges and to discuss what additional support (if any) is needed.

**Annex A**

In total 76 responses to the consultation were received, with 42 responses received through Citizen Space and 34 responses received by email.

List of organisations that took part in the consultation:

Basildon Borough Council

Birmingham City Council

Blackburn with Darwen Borough Council

Bolton Council

Bracknell Forest Council

Breckland Council

Brentwood Borough Council

Chartered Institute of Public Finance and Accountancy (CIPFA)

City of Lincoln Council

Cornwall Council

Croydon Council

Derby City Council

Devon County Council

District Council’s Network (DCN)

East of England Local Government Association

Eastbourne Borough Council

Elmbridge Borough Council

England’s Economic Heartland

Essex County Council

Hampshire and Isle of Wight Fire and Rescue Authority

Hampshire County Council

Institute of Chartered Accountants in England and Wales – ICAEW

Knowsley Metropolitan Borough Council

Leeds City Council

Lewes District Council

Lincolnshire County Council

Litchfield District Council

Local Government and Social Care Ombudsman

Local Government Association

London Borough of Barking and Dagenham

London Borough of Lewisham

London Borough of Waltham Forest

London Councils

Maldon District Council

Melton Borough Council

Mole Valley District Council

Norfolk County Council

North East Lincolnshire Council

North Kesteven District Council

North Northamptonshire Council

Nottingham City Council

Nottinghamshire County Council

Oadby and Wigston Borough Council

Peterborough City Council

Reading Borough Council

Redcar and Cleveland Borough Council.

Rochford District Council

Rotherham Metropolitan Borough Council

Royal Borough of Kensington and Chelsea

Runnymede Borough Council

Rushmoor Borough Council

Salford City Council

SIGOMA, The Special Interest Group of Municipal Authorities, within the LGA

The Society of Local Authority Chief Executives and Senior Managers (SOLACE)

Solihull Metropolitan Borough Council

South Kesteven District Council

South Tyneside Metropolitan Borough Council

St Albans City and District Council

St Helens Council

Stevenage Borough Council

Sunderland City Council

Surrey County Council

Surrey Heath Borough Council

Tameside Council

Tandridge District Council

The Broads Society

Thurrock Council

Walsall Council

Warwickshire County Council

West Lindsey District Council

West Midlands Combined Authority

West Suffolk Council

Wigan Council

Wiltshire Council

Wirral Metropolitan Borough Council

Wyre Forest District Council

1. [Best value standards and intervention - a statutory guide for best value authorities: consultation - GOV.UK (www.gov.uk)](https://www.gov.uk/government/consultations/best-value-standards-and-intervention-a-statutory-guide-for-best-value-authorities-consultation) [↑](#footnote-ref-2)
2. Local accountability, continuous improvement, openness to challenge and support, expectations, prevention, meeting the cost of failure, and default commissioner powers and de-escalation. [↑](#footnote-ref-3)
3. Continuous improvement, leadership, governance, culture, use of resources, service delivery, partnerships and community engagement. [↑](#footnote-ref-4)
4. Four-day working week arrangements in local authorities (October 2023) [↑](#footnote-ref-5)
5. [Revised Best Value Guidance](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/418505/Revised_Best_Value_Statutory_Guidance_final.pdf) (March 2015) [↑](#footnote-ref-6)