

**16 October 2023****Agenda Item: 8****REPORT OF SERVICE DIRECTOR FOR FINANCE, INFRASTRUCTURE &  
IMPROVEMENT AND SERVICE DIRECTOR CUSTOMERS, GOVERNANCE &  
EMPLOYEES****BEST VALUE STANDARDS AND INTERVENTION****Purpose of the Report**

1. To provide members with the response provided by the County Council to the Government's consultation entitled 'Best value standards and intervention - a statutory guide for best value authorities.'

**Background**

2. The Rt Hon Michael Gove, Secretary of State for Levelling Up, Housing & Communities, wrote to Leaders of local authorities in July 2023, setting out a consultation on the proposed statutory guidance for local authorities on the Best Value Duty. The guidance is aimed at providing more clarity on the use of powers under the Local Government Act 1999 where this Best Value Duty is not, or is at risk of not, being met. And where these standards are not upheld, it sets out the models of statutory and non-statutory intervention available, with stages of escalation.
3. The deadline for responses was 15 August 2023. Due to the timing of the consultation the response as set out in this report were provided on behalf of the County Council by the Section 151 Officer in consultation with the Chair & Vice-Chair of the Committee, the Chief Executive and the Monitoring Officer.

**Best Value Guidance**

4. This new guidance sets out seven themes of good practice for running an authority to secure continuous improvement and provide value for money. These include the characteristics of a well-functioning local authority and the indicators used to identify challenges that could indicate failure. The guidance also sets out the models of statutory and non-statutory intervention available when standards are not upheld. The Government have indicated that it will publish the guidance after consideration of the results of the consultation.
5. The guidance provides greater clarity to the local government sector on how to fulfil the Best Value Duty by describing what constitutes best value, 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.

6. Government's approach to ensuring all authorities carry out their functions in compliance with the Best Value Duty is based on the following principles:
  - a. Local accountability
  - b. Continuous improvement
  - c. Openness to challenge and support
  - d. Expectations
  - e. Prevention
  - f. Meeting the cost of failure
  - g. Default commissioner powers and de-escalation
7. The proposed statutory guidance sets out seven overlapping themes of good practice for running an authority that meets and delivers best value. The seven best value themes are all interdependent, namely:
  - a. Strong governance
  - b. Culture
  - c. Leadership
  - d. Partnerships and community engagement
  - e. Service delivery
  - f. Use of resources.
  - g. Continuous improvement - being the outcome of all the themes working well together
8. The guidance sets out a detailed description of these themes, including characteristics of a well-functioning local authority and indicators used to identify challenges that could indicate failure. This includes an illustrative list of indicators including both qualitative and quantitative data and no single metric automatically leads to inspection or intervention. Decisions to intervene pursuant to the 1999 Act are 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. An example of an area description is as follows:
  - a. Continuous improvement
  - b. Making arrangements to secure continuous improvement in performance and outcomes is a core requirement for achieving best value.
  - c. Any organisation with a duty of best value needs to make effective arrangements to secure continuous improvement in the way in which all its functions are exercised on an ongoing basis and at pace.
  - d. These arrangements will include inviting independent external challenge and scrutiny, in the form of regular service specific as well as corporate or finance peer challenges, engaging with sector support initiatives on offer and informal experience sharing among peers.
  - e. Local authorities should also have a sense of collective responsibility for the performance of the sector and help other authorities to improve.
  - f. The Chartered Institute of Public Finance and Accountancy (CIPFA) / Society of Local Authority Chief Executives (SOLACE) Delivering Good Governance in Local Government Framework, along with the Centre for Governance and Scrutiny and Localis Governance Risk and Resilience Framework can help authorities to identify, understand, and act on risks to good governance.
9. The Government's local government stewardship function continually reviews 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. The information reviewed combines the use of:

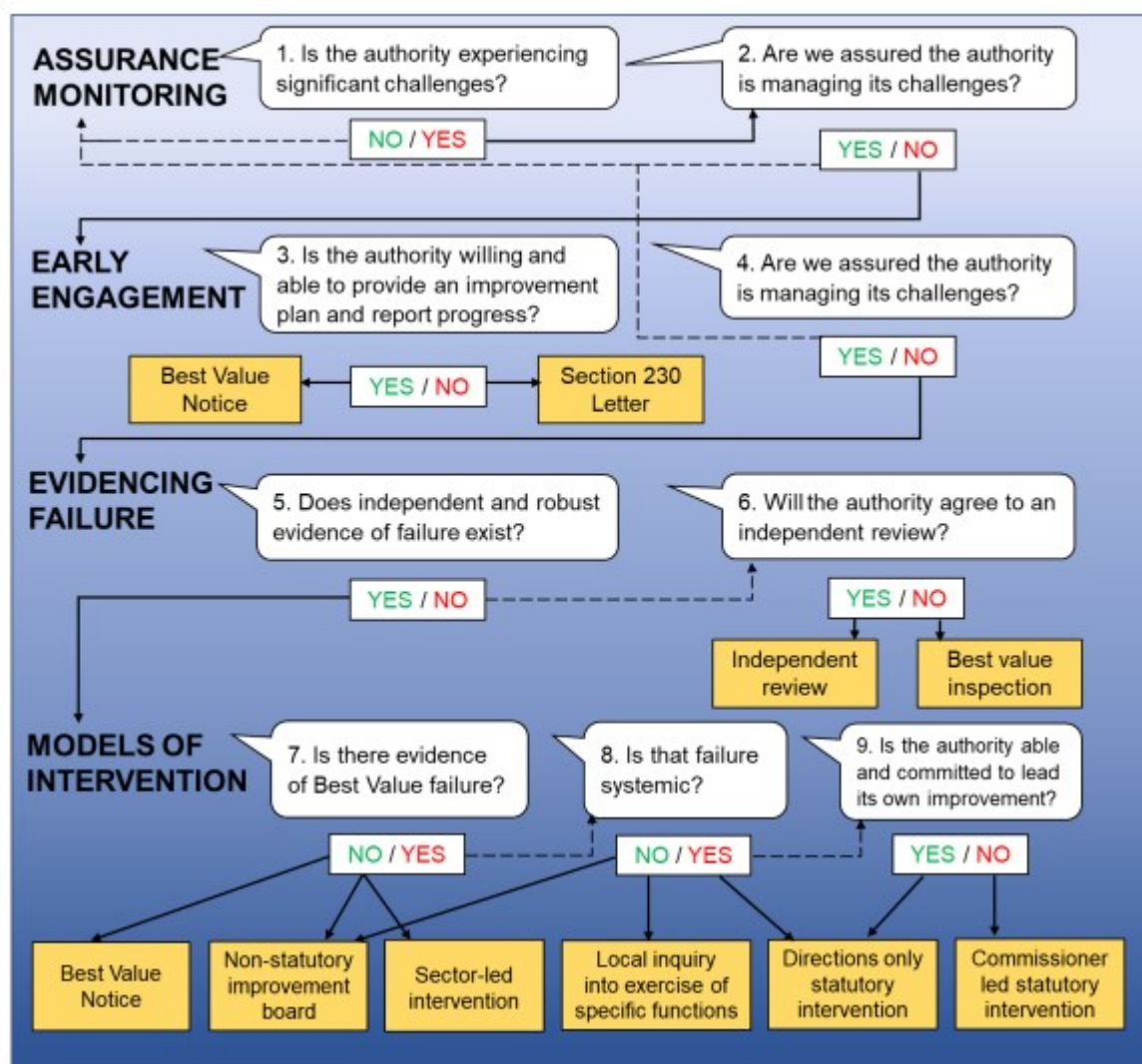
- national data metrics,
- published documents from local authorities (annual governance statement, committee papers, statement of accounts, and locally commissioned reviews),
- auditors' annual reports and other reporting,
- reports from inspectorates such as Ofsted and the Care Quality Commission,
- reports from the Local Government and Social Care Ombudsmen,
- LGA corporate peer challenge reports and any follow-up reports, and
- residents' and MPs' letters where they raise concerns under the Best Value Duty.

10. In addition to this guidance, the Levelling Up and Regeneration Bill will introduce measures to provide a flexible range of interventions for the department to investigate and remediate extreme risk in relation to a local authority's investment and borrowing. Intervention in a local authority will be considered when a trigger point is breached with respect to certain risk metrics, which fall into the following categories:

- Proportionality of debt (e.g., total debt compared to Core Spending Power),
- Proportion of commercial investments,
- Types of debt (e.g., novel credit arrangements and loans), and
- Under-provision of Minimum Revenue Provision (a statutory duty to make sufficient provision to repay debt).

11. The Secretary of State must be satisfied that an authority is failing to carry out its functions in compliance with the Best Value Duty before intervening on a statutory basis under section 15 of the 1999 Act. If an authority is exhibiting some characteristics that may indicate best value failure, but there is insufficient evidence available for the Secretary of State to make an informed judgement, the Secretary of State may commission an inspection to determine whether best value failure has occurred. Annex A of the guidance sets out the process for statutory inspection in more detail.

12. The guidance also sets out the models of intervention, both non-statutory and statutory as well as the process and criteria for exiting intervention. The models of intervention set out in the guidance is set out in the following diagram:



## Questions and Response by the County Council

13. The consultation included a number of questions regarding the proposed statutory guidance. These questions together with the responses are set out below:

Nu.	Question	Answer
Q1.	What is your name?	Nigel Stevenson
Q2.	What is your organisation?	Nottinghamshire County Council
Q3.	Are you answering the consultation as?	An Upper Tier Local Authority
Q4.	From the list below, where are you or your organisation based?	East Midlands
Q5.	Do you agree that the principles in Section 4 should apply to all best value authorities?	Yes
Q6.	This statutory guidance has been developed principally for local councils, including combined authorities. However, all best value authorities should be mindful	Yes. This should be applied to all best value authorities. This is particularly relevant with the current description of

	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? These include national park, fire, rescue, waste disposal, integration and sub-national transport authorities, the London Fire Commissioner and Transport for London.	partnerships and community engagement set out in the guidance.
Q7.	Do you agree with the seven principles proposed in section 4?	Yes
Q8.	Do you agree with the seven best value themes?	Yes
Q9.	Do you agree with the suggested key characteristics of a well-run authority and key indicators of failure in relation to continuous improvement?	Yes
Q10.	Do you agree with the suggested key characteristics of a well-run authority and key indicators of failure in relation to leadership?	Yes
Q11.	Do you agree with the suggested key characteristics of a well-run authority and key indicators of failure in relation to governance?	Yes, however, an indicator setting out the proper management of conflict of interests especially in the governance of companies may need to be included.
Q12.	Do you agree with the suggested key characteristics of a well-run authority and key indicators of failure in relation to culture?	Yes
Q13.	Do you agree with the suggested key characteristics of a well-run authority and key indicators of failure in relation to efficient use of resources?	Yes
Q14.	Do you agree with the suggested key characteristics of a well-run authority and key indicators of failure in relation to service delivery?	Yes
Q15.	Do you agree with the suggested key characteristics of a well-run authority and key indicators of failure in relation to partnerships and community engagement?	Yes
Q16.	The seven themes have a description, characteristics of a well-run authority and indicators of potential failure (Tables 1-7, Section 5). Which, if any, of the proposed characteristics and indicators of failure do you think are priorities and the strongest indicators of best value?	We notice that indicators in one theme may be due to failure of an indicators in another theme. Rather than looking at indicators in a theme and trying to give weight to them we feel it more appropriate that a more holistic approach to all the indicators across

		the themes are reviewed. This would allow weight being given to a broad range of indicators and recognise the interdependencies between them.
Q17.	Many of these indicators are measured by metric 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 5?	One suggestion may be for a formal annual self-assessment which is published against all indicators rather than trying to attempt to identify a top set.
Q18.	The guidance sets out a number of characteristics and indicators across seven themes in section 5. If certain characteristics or indicators were to be identified as key, and more important than others in achieving Best Value, what would be 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 risk be further mitigated?	We believe it difficult to identify key indicators when considering that some indicators of failure will cross onto indicators on other themes. There will also be the issue where some indicators of failure would be early signs that the more serious sign of failure may occur, e.g., under use of resources theme the issuance of a S114 notice may occur after failure to implement difficult budget decisions or inadequate reserves and poor benefits realisation. It would be more the timing of indicators of failure appearing rather than if they are key or not. Consequently, more work is required to understand the timing, interdependencies and the holistic view of all the indicators.
Q19.	Are you happy with the level of clarity and detail in the description of statutory and non-statutory Best Value Notices? (Section 6)	Yes
Q20.	Besides those mentioned in section 5, are there other ways in which the government could engage earlier with the individual local authorities to prevent any challenges experienced from escalating?	Yes. We believe authorities would benefit from understanding what the earlier signs of failure are based on the experiences currently faced by the sector. This would be linked to the suggested annual self-assessment across the suite of indicators with the potential to explore support from external sector led experts.
Q21.	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,	No. Initially it would appear reasonable; however, we believe this is too arbitrary and believe it needs to be set in the context of the organisation, its wider

	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? (Section 6, para 32)	partnerships and their effectiveness overall.
Q22.	Is the description of a Best Value Inspection sufficiently clear? (Section 7 and Annex A)	Yes
Q23.	Is the description of independent reports sufficiently clear?	Yes
Q24.	Are the models of intervention described in this guidance clear in terms of description, purpose and scenario when they would be applied? (Section 8).	Yes
Q25.	Do you agree with the position that intervention should end as soon as an authority can demonstrate that it can independently sustain its journey of continuous improvement without support? (Section 9, para 50)	We agree that both the criteria and the timeframes for assessment on progress should be set out at the beginning of any intervention considering local and national context and partnership arrangements. This is both important to the authority and to the residents. Any lengthy period of uncertainty, especially through non-statutory intervention, may in itself cause further failure.
Q26.	Are there any areas missing from the statutory guidance that you think would be helpful to include?	Yes. The guidance would be completed with the process set out for the appointment and performance assessment of commissioners or chairs of statutory improvement and assurance boards.

### Other Options Considered

14. The report presents members with the response provided by the County Council to the Government's consultation entitled 'Best value standards and intervention - a statutory guide for best value authorities.' Formulation of the response was undertaken with the Chair & Vice-Chair of the Committee, the Chief Executive and the Monitoring Officer. No other options were considered.

### Reason for Recommendation

15. To present members with the opportunity to consider the content of the Government's consultation entitled 'Best value standards and intervention - a statutory guide for best value authorities' alongside the response to the consultation provided by the County Council.

## **Statutory and Policy Implications**

16. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

## **Financial Implications**

17. There are no direct financial implications arising from this report.

## **RECOMMENDATION**

- 1) Members consider the content of the Government's consultation entitled 'Best value standards and intervention - a statutory guide for best value authorities' and note the response to the consultation provided by the Council.

### **Nigel Stevenson**

Service Director for Finance,  
Infrastructure & Improvement and Section  
151 Officer

### **Marjorie Toward**

Service Director for Customers,  
Governance & Employees and Monitoring  
Officer

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## **Constitutional Comments (LW 15/08/2023)**

18. Governance and Ethics Committee is the appropriate body to consider the content of the report.

## **Financial Comments (NS 08/08/2023)**

19. There are no specific financial implications arising from this report.

## **Background Papers and Published Documents**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- None

## **Electoral Division(s) and Member(s) Affected**

- All