

# Appendix E

## Statutory Best Value Guidance Applies to England

### Contents

1. [Ministerial foreword](#)
2. [1.Introduction](#)
3. [2.Best value powers](#)
4. [3.Guiding principles](#)
5. [4.Defining best value](#)
6. [5.Assurance and early engagement](#)
7. [6.Evidencing failure](#)
8. [7.Models of intervention](#)
9. [8.Exiting intervention](#)
10. [Annex A: The end-to-end process of interventions](#)
11. [Annex B: Further statutory best value guidance](#)

Print this page

## Ministerial foreword

Local councils are the frontline of democracy. They play a vital role in our communities and are critical partners as we level up the nation. We need our councils to support everyone, including the most vulnerable. They must be able to make our towns, cities, villages and communities great places to live where every citizen, no matter their circumstances, can thrive. That means providing the effective and efficient local services – from schools, social care and waste collection – that people want and deserve. To do that, they must make the most of every penny they receive from taxpayers to achieve better results for the communities they serve.

Councils in this country tend to have a robust record of transparency, probity, scrutiny and accountability – a reputation worth protecting. Most councils are also committed to continuous improvement and transformation, and strive to achieve value for money when carrying out their functions. Yet as well as celebrating the best of local

government, we must also act when the high standards we expect are not met. The cause of devolution and decentralisation is set back by the glaring failures of some councils. It is right that the government intervenes in these circumstances using powers under the Local Government Act 1999. The government recognises the importance of councils' independence and accountability to communities, and does not use these powers lightly. At the same time, we will take all necessary steps to protect residents and uphold the good name of local government.

Under the 1999 Act, local authorities must legally deliver what is termed 'Best Value' – a council must be able to show that it has arrangements to secure continuous improvement in how it carries out its work. This guidance provides more clarity on the use of powers under the Act 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.

Existing guidance on 4 day working weeks makes it clear that local authorities should not be practicing such arrangements. This is part-time work for full-time pay and it is government's view that these practices are unlikely to adhere to the Best Value Duty. This guidance demonstrates that we will take action where an authority is not using its resources effectively and does not have a credible workforce strategy.

This guidance has been developed for local authorities, including combined authorities and combined county authorities, in England, but I encourage all best value authorities to bear its principles in mind. Prompt intervention to identify and address challenges is always the better approach. When we collectively put appropriate support in place before failure takes root, we can protect citizens and taxpayers from more severe consequences.

It is also the case that in tackling weaknesses earlier, we can expect to see more inspections and locally instigated reviews. This transparency and challenge should be welcomed by all councils that seek continuous improvement – the core aim of the Best Value Duty.

To support the improvement of local government further, we have established the Office for Local Government (Oflog). Oflog provides authoritative and accessible data and analysis to increase understanding about the performance of local authorities, warn when they are at risk of serious failure, and support the sector to improve

itself. Oflog will play a key role supporting local government to improve performance, productivity, and value for money for residents.

Already, residents fortunate to live in the very best, flagship authorities benefit from a culture relentlessly focused on achieving best value across all public services, even where current performance is good. This guidance will help all authorities in their efforts to reach the same high bar.

**The Rt Hon Michael Gove MP**  
**Secretary of State for Levelling Up, Housing and Communities**

## **1. Introduction**

1. Local authorities are democratically elected bodies that exercise a range of statutory and discretionary functions for the benefit of local communities, and which operate in accordance with a range of statutory requirements. Local authorities are responsible for ensuring proper democratic accountability, transparency, public scrutiny and audit of their activities, and are subject to external scrutiny from their external auditor and a number of government bodies including Ofsted, the Care Quality Commission, the Office for Local Government (Oflog) and the Local Government and Social Care Ombudsman. The department, the local government sector and others are responsible for oversight of different aspects of local government accountability and assurance. The department's Accounting Officer is responsible for ensuring a sector-wide local accountability system is in place and that it remains robust. The department's Accounting Officer and officials provide the Secretary of State with advice and analysis on the sector's risk and instances where central government intervention is necessary.

2. The Best Value Duty relates to the statutory requirement for local authorities and other public bodies defined as best value authorities in [Part 1 of the Local Government Act 1999](#) ("the 1999 Act") to "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness". In practice, this covers issues such as how authorities exercise their functions to deliver a balanced budget ([Part 1 of the Local Government Finance Act 1992](#)),

provide statutory services, including adult social care and children's services, and secure value for money in all spending decisions.

3. Best value authorities must demonstrate good governance, including a positive organisational culture, across all their functions and effective risk management. They are also required, pursuant to [section 3 of the 1999 Act](#), to consult on the purpose of deciding how to fulfil the Best Value Duty. The annual process of setting the authority's budget, the corporate plan and the medium-term financial plan provides a key opportunity to conduct such consultation. This is the stage at which consultation will best assist the authority in deciding how to make arrangements to secure continuous improvement.

4. Failure to deliver best value can occur within any aspect of governance, the delivery of services or financial management. To help local authorities to achieve best value, government funds a programme of improvement support, primarily via the Local Government Association, that includes a wide range of sector-led support activities for members and officers, including peer challenges, mentoring and the dissemination of best practice. Government expects local authorities to participate in the sector-led improvement initiatives available to them, to take up any offers of sector support or seek their own bespoke support if they require, and to be open to challenge. Government also expects all local authorities to have a corporate or finance peer challenge at least every 5 years, to publish the outcomes and deliver on the recommendations of that review, and to complete a progress review within a year. Improvement support is also provided for specific service areas such as in social care, public health, planning and transport. For example, the Sector Led Improvement Partners Programme for Children's Social Care, where local authorities can request support from high-performing peers to help them improve.

5. Government has also established the [Office for Local Government \(Oflog\)](#) to increase transparency and accountability by providing an authoritative and accessible source of information about the performance and health of the sector. This guidance may be updated as Oflog develops further, but Oflog's current work falls under 3 broad headings:

- Inform: Increase understanding - among citizens, civil society, central government and local government itself - about data on the performance of local authorities.

- Warn: Help identify local authorities that are at risk of failure but have not raised the alarm themselves.
- Support: Support local government to improve performance, productivity, and value for money: championing best practice, improving data capability and rationalising a complex data landscape.

6. Where, over a period of time, continuous improvement is not demonstrated sufficiently, the 1999 Act grants the Secretary of State powers to intervene to ensure compliance with the Best Value Duty. These powers include taking action to protect the public purse and ensure significant or long-term failings are corrected and performance is raised to an acceptable and sustainable level.

7. This statutory guidance on the Best Value Duty is issued under [section 26 of the 1999 Act](#). The following best value authorities are required to have regard to this guidance: county and district councils, London borough councils, combined and county combined authorities<sup>[footnote 1](#)</sup>, the Common Council of the City of London, the Greater London Authority so far as it exercises its functions through the Mayor and the Council of the Isles of Scilly.

8. Although not a requirement, it would be good practice for all best value authorities to be mindful of the principles set out in this document in order to ensure they deliver the Best Value Duty. In exceptional cases, and recognising the existence of other inspection and intervention regimes across government, the Secretary of State may intervene in these authorities as listed below where there is clear and significant failure:

- National Park authorities (for National Parks in England)
- The Broads Authority
- The Common Council of the City of London in its capacity as a police authority<sup>[footnote 2](#)</sup>
- Fire and rescue authorities (as defined by the Fire and Rescue Services Act 2004 as amended)
- London Fire Commissioner
- Waste disposal authorities
- Integrated transport authorities
- Economic prosperity boards
- Sub-national transport bodies
- Transport for London

This 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's disposal in the event of failure to uphold these standards. It supplements [Revised best value guidance](#) issued in 2015 which sets out reasonable expectations of the way authorities should work with voluntary and community groups, and small businesses. It also supplements [statutory guidance on the making and disclosure of Special Severance Payments](#) and [non-statutory guidance on digital infrastructure](#). This guide should not be taken as a definitive guide to the interpretation of the legislation, which is reserved for HM Courts.

## 2. Best value powers

10. The Secretary of State has powers under [section 10 of the 1999 Act](#) to appoint a person to carry out an inspection into an authority's compliance with the Best Value Duty. This power may be exercised to provide evidence for the Secretary of State to make a judgement on whether to intervene, but an inspection is not formally required prior to statutory intervention (see [section 7 of this guide for the various models of statutory intervention](#)).

11. Where the Secretary of State is satisfied that an authority is failing to carry out its functions in compliance with the Best Value Duty, [section 15 of the 1999 Act](#) provides powers for the Secretary of State to intervene on a statutory basis in that authority. These powers include the ability to:

- Direct a local inquiry to be held into the exercise by the authority of specified functions
- Direct the authority to carry out a review of its exercise of specified functions
- Direct the authority to take any action which the Secretary of State considers necessary or expedient to secure its compliance with the requirements of the Best Value Duty, and
- Direct that a specified function or functions of the authority be exercised by the Secretary of State or a person nominated by them (referred to as "commissioners" in previous interventions) for a specified period

12. The Secretary of State's decision to intervene, when, and what form that intervention should take relies on the analysis of a complex set of data and circumstances, set out in [section 4 of this guide](#). Weighing up the degree and impact of failure on local residents requires an element of judgement and consideration of the confidence in a local authority's capacity, capability and commitment to lead its own improvement.

### **3. Guiding principles**

13. Government's approach to ensuring all authorities carry out their functions in compliance with the Best Value Duty is based on the following guiding principles.

#### **Local accountability**

14. Accountability should primarily be to local residents and businesses through public meetings, transparent decision-making and ultimately at the ballot box. Statutory intervention will only be used when there are significant and extensive indications of failure and authorities are not delivering to the high standards which their local communities have a right to expect. As far as possible, government will look to existing local checks and balances in the system to mitigate risks of failure. Where there are indications that the local authority is not complying with these checks and balances, government may seek additional assurances or intervene to secure compliance with the Best Value Duty.

#### **Continuous improvement**

15. Every best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. The reference to "making arrangements" makes it clear that the Best Value Duty is concerned more with intentions, namely securing improvement in the way in which an authority



performs its functions, than outcome. This means that while authorities are not expected to be perfect, they should prioritise learning and development throughout the organisation and always strive to learn from past mistakes, address under-performance, and avoid continuing in a direction where failure is evident. Errors and poor performance should be clearly isolated and exceptional rather than repeated or systemic, and should not be significant in value, governance, or have wider implications. Lessons learned and the steps taken to address mistakes and poor performance should be clearly documented in the authority's Annual Governance Statement.

### **Openness to challenge and support**

16. Best value authorities are responsible for their own performance. Government expects these authorities to make their own arrangements to secure continuous improvement in the way in which their functions are exercised. This includes being open to external challenge and scrutiny, including in the form of regular peer challenges and participating in the broad range of formal and informal improvement initiatives available to authorities. It also means using performance indicators, operating in a transparent manner and being responsive to challenge from the press, public and local communities more generally. Authorities should use [Oflog's Local Authority Data Explorer](#) to benchmark performance against similar authorities and collaborate to identify and share best practice across the sector. Authorities should be clear in their Annual Governance Statements about how they are delivering improvements over time against any recommendations made by external parties. Authorities are also expected to have a sense of collective responsibility for the performance of the sector as a whole and engage in sector-led support to other councils and benchmarking.

### **Expectations**

17. Government should be clear in its expectations of an authority to demonstrate it is securing best value in key areas such as governance, culture, finances and service delivery (see [section 4 of this guide on the department's best value themes](#)). These expectations, clarified in this guidance, should be shared with the



sector and reflect what most local authorities already do or are striving to achieve. Authorities need to 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. An inability or reticence to acknowledge clear failings and/or resistance to external challenge or scrutiny is indicative of failure to secure best value. However, it is the Secretary of State's decision to ascertain whether the Best Value Duty is being met and judgements will be made based on the circumstances of each case, including the financial challenges within which the local authority is operating.

## **Prevention**

18. Local authorities should take responsibility for identifying early warning signs and act appropriately to address potential failures at the earliest opportunity by participating in the sector-led improvement initiatives available to them. Government will engage early with local authorities showing signs of not complying with the Best Value Duty and will work with them to create meaningful, locally-tailored solutions to prevent challenges from escalating. It will act swiftly to investigate significant indications of failure and determine the appropriate support or model from a range of statutory and non-statutory options. This guidance highlights relevant indicators and signals of potential failure, but this should not be taken as an exhaustive list as each local authority and the context it operates in is different.

## **Meeting the cost of failure**

19. Whilst most authorities want to do the right thing, if government was to reward failure by funding necessary improvement where there is best value failure, this could risk introducing a financial motive to fail. Leaders, both official and elected, should take responsibility for their actions rather than being bailed out by government. While local leaders are held to account for the impact of their decisions at the ballot box, authorities should apply performance management procedures in line with their usual policies where there is failure. The financial cost of failure should be met locally, as far as possible.

## **The lifecycle of an intervention**

20. Current and previous interventions have shown that when failure in a local authority has been more widespread than the evidence first demonstrates, the requirement to expand commissioner powers has delayed improvement. Expanding rather than reducing the scope of the intervention can have a negative effect on an authority's confidence and momentum with progress. In cases where there has been significant failure in a particular functional area or areas and where commissioners have been appointed, the department will therefore make a default presumption that failure may be more pervasive. In such cases, commensurate powers relating to governance, finance and senior appointments will be provided to commissioners on appointment, unless there is good reason not to provide the default powers. Commissioners may also be provided with the power to take any action that they reasonably require to avoid incidents of poor governance or financial mismanagement that may give rise to the risk of further best value failure. Such powers may not need to be used but will empower commissioners to accelerate the discovery phase of an intervention to ensure potential failure in any function is quickly identified, and to promptly address any additional issues that may arise in order to accelerate improvement. This ultimately should support the intervention ending within the fastest possible timeframe.

21. A statutory intervention should de-escalate over time. The ending of an intervention should be based on an agreed exit strategy, with clear indicators of success, which is developed by the commissioners and the authority together as early as possible in the intervention. This exit strategy should be sufficiently flexible to reflect the journey that the local authority is making. See [section 8](#) for further details.

## **4. Defining best value**

22. The Best Value Duty is concerned with making arrangements to secure continuous improvement. To provide greater clarity to the sector on how to fulfil their Best Value Duty, this statutory guidance sets out 7 overlapping themes of good practice for running an authority that meets and delivers best value. These 7 best value themes build on the lessons learned from past interventions, including those which the department published in June 2020, and

reflect what most local authorities already do or are striving to achieve. While these themes are all interdependent, strong governance, culture, and leadership underpin effective partnerships and community engagement, service delivery, and the use of resources. Continuous improvement is the outcome of all the themes working well together.

**Diagram 1: Seven best value themes**



- Continuous improvement
- Leadership
- Governance
- Culture

- Use of resources
- Service delivery
- Partnerships and community engagement

23. There is no single version of 'good' – different aspects might look different in different areas – but these 7 themes represent the key areas where authorities should be able to demonstrate they are making effective arrangements to secure continuous improvement in the way in which its functions are exercised. Inspection and intervention, described in later sections, are contingencies for the Secretary of State to use in the event that they consider these themes of good practice are not, or are at risk of not, being met.

24. Local authorities are not expected to perform perfectly, given the complex set of legal responsibilities and inherent levels of risk authorities must manage, but should strive for excellence and be able to demonstrate they are making effective arrangements to secure continuous improvement in each of these areas.

25. A detailed description of these themes, including characteristics of a well-functioning local authority and indicators used to identify challenges that could indicate failure, is set out below. This is 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 will only be taken when there are significant, systemic and extensive indications of failure and it is anticipated that these will present across more than one best value theme. Decisions 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.

26. There is significant variation in the functions of individual combined authorities, including county combined authorities, as well as those local authorities which have agreed individual devolution deals, which will need to be considered when assessing their performance. In addition, combined authorities typically have fewer services to deliver and have more of a focus on strategic delivery and developing partnerships and community engagement, as well as local assurance frameworks, which will be considered when assessing the different themes, although all still apply. For constituent councils of combined authorities, working with their

devolution partners will be of particular note when considering Partnerships and Community Engagement.

## **1. Continuous improvement**

### **Description**

Making arrangements to secure continuous improvement in performance and outcomes in relation to the exercise of all functions is a core requirement for achieving best value, and should be done whilst reflecting local priorities.

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 the range of sector support initiatives on offer and informal experience sharing among peers.

Lessons learnt and the steps taken to address mistakes and poor performance should be clearly documented in the authority's Annual Governance Statement.

Local authorities should also have a sense of collective responsibility for the performance of the sector and help other authorities to improve.

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.

### **Characteristics of a well-functioning authority**

- An organisational-wide approach to continuous improvement, driven by an established transformation function or programme, with frequent monitoring, performance reporting and updating of the corporate and improvement plans.
- The use of performance indicators and Oflog's Local Authority Data Explorer to manage risk and to benchmark against similar authorities and manage risk.

- Participation in Oflog's programme of webinars to share best practice between local authorities, to help improve performance, productivity and value for money.
- The authority's scrutiny function is challenging, robust and contributes to the efficient delivery of services.
- The authority arranges a corporate or finance peer challenge at least every five years, acts promptly on any recommendations given, and publishes the report of that review and progress updates.
- The authority is willing to work with the external auditor and Local Government and Social Care Ombudsman to proactively identify areas for improvement and responds promptly and effectively to recommendations.
- Professional development and appraisal at all staff levels is built into day-to-day work, with poor performance identified, monitored and effectively addressed, and good performance recognised.
- The Annual Governance Statement, prepared in accordance with the CIPFA/ SOLACE Good Governance Framework, is the culmination of a meaningful review designed to stress-test both the governance framework and the health of the control environment.
- Innovation is encouraged and supported within the context of a mature approach to risk management.
- Resident engagement informs improvement efforts.
- The authority shares a sense of collective responsibility for the sector's performance and supports other authorities to improve.

#### **Indicators of potential failure**

- A culture of denial and lack of openness to constructive advice and challenge
- A lack of awareness and reluctance to acknowledge weaknesses and engage with the sector support on offer (such as no corporate peer challenge in the past five years or alternative external assessment).
- Evidence that attempts at improvement have not been effective over a sustained period of time.
- The Annual Governance Statement is not used as an improvement document, is developed by officers without member oversight, is not updated annually and/or is generic in tone and content.
- Lack of engagement with and/or poor quality or non-existent member and officer training and development offer.

- A lack of 'good quality' data and insight to understand services.
- Existence of multiple and/or uncoordinated improvement plans.

## **2. Leadership**

### **Description**

Effective political and administrative leaders who have a clear vision and set of priorities for their area, are key to building local economic growth, social cohesion and a healthy local democracy.

When they model positive and effective leadership behaviours at all levels, this can be beneficial to a local authority's overall culture and governance.

It is essential that all officers with statutory responsibility, including the Chief Finance Officer (Section 151 Officer or Section 73 Officer in the case of combined authorities and combined county authorities) and Monitoring Officer uphold their duties, both individually and collectively and provide reports to the Chief Executive/Head of Paid Service and, as necessary, to full Council. Statutory officers must work effectively together, have access to the highest levels of council decisions and have a voice in important decisions.

An authority that either fails to recruit to its statutory officer posts on a permanent basis over an extended period of time or has a high turnover in these roles indicates instability and potential wider cultural concerns.

When this is compounded by many senior positions being appointed to on an interim basis over an extended period, this can signal a problem.

All-out as opposed to multiple elections within the four-year cycle can enhance political stability and reduce ongoing campaigning that can hinder improvement.

### **Characteristics of a well-functioning authority**

- Members provide quality leadership by setting a clearly articulated, achievable and prioritised vision for officers to follow that puts place and local people at its heart. Senior



officers have the capacity and capability to provide the authority with effective strategic direction.

- The authority's corporate plan is evidence based, current, realistic and enables the whole organisation's performance to be measured and held to account. The authority's financial strategy and delivery arrangements are aligned with priorities in the corporate plan, and respond appropriately to local need, including the plans of partners and stakeholders.
- Members and officers, particularly those with statutory responsibility, including the Head of Paid Service, Section 151 and Monitoring Officer, uphold their duties and speak truth to power.
- The Monitoring Officer is sufficiently supported and protected to allow them to enforce regulations and codes of conduct without fear.
- Strong financial management and reporting, in accordance with the CIPFA Financial Management Code, runs throughout the whole organisation.
- Robust systems are in place and owned by members for identifying, reporting, mitigating and regularly reviewing risk.
- Effective succession planning, with the recruitment and development of officers with the necessary skills, ensures organisational resilience.
- Members and senior officers maintain constructive relationships and engage effectively with external stakeholders and the wider local community.
- A demonstrable commitment to leadership and member development, including specialist training for key roles
- Effective and timely responses to issues with acceptance of the need to make changes and without a culture of blame.

#### **Indicators of potential failure**

- A lack of corporate capacity or capability, resulting in a lack of strategic direction, oversight and sense of accountability.
- Leadership losing sight of the authority's role and function as a leader of place and provider or enabler of services to local residents and businesses.
- A lack of understanding of public sector standards, the Nolan Principles and appropriate behaviour.
- Corporate plan is out of date, unrealistic and unaffordable and/or has too many priorities.
- Poor quality financial management.
- Section 151, Section 73 and Monitoring Officers do not have direct lines of communication to the Head of Paid Service, do

not demonstrate ownership and accountability, or are not involved in important decisions.

- Risk management is not effective, owned corporately and/or embedded throughout the organisation.
- A lack of political and/or organisational stability, with high leadership turnover, key posts remaining vacant or an overreliance on interim officers, creating a lack of continuity and/or decisions in the long-term interests of the authority.
- Leadership at both political and managerial levels is distracted and involved to an unhealthy extent in internal battles.
- The absence of fit for purpose and regularly reviewed approaches to workforce planning, procurement, risk and IT.
- A loss of stakeholder and public confidence.
- A sense of insularity, a failure to tolerate internal or external challenge, and to recognise the need for improvement.
- Decisions that are perceived as being difficult are avoided or deferred.

### **3. Governance**

#### **Description**

In a well-run council officers and members will have a clear understanding of the democratic mandate as it operates in the organisation.

There will be clear and robust governance and scrutiny arrangements in place that are fit for purpose, appropriate to the governance arrangements adopted locally (executive / committee system), and in accordance with statutory or sector guidance such as [statutory guidance on overview and scrutiny](#) and the Centre for Governance and Scrutiny's [governance risk and resilience framework](#). These arrangements should be understood by members and officers alike, reviewed regularly and accurately described in the Annual Governance Statement.

Decision-making processes, within clear schemes of delegation, should be transparent, regularly reviewed, clearly followed and understood, enabling decision-makers to be held to account effectively. There should also be evidence of the decisions following good public law decision making principles (reasonableness, rationality, proportionality, legality, fairness etc).

Codes of conduct and HR processes should be to sector standard and ensure effective support for whistle-blowers.

### **Characteristics of a well-functioning authority**

- Effective procedures are in place and followed to ensure members and all officers comply with the Nolan Principles, relevant codes of conduct and policies, including procurement. This includes adequate protections and support for whistle-blowers and adherence to Contract Procedure Rules.
- Scrutiny and internal audit functions are challenging, robust, valued and contribute to the efficient delivery of public services.
- Public reporting on value for money, performance and the stewardship of resources is completed in a timely and understandable way, with transparent responses to recommendations from internal and external audit, and regulators.
- Risk awareness and management informs every decision.
- Full Council, alongside the Audit Committee, reviews governance arrangements and takes an effective overview of the systems of control, audit and governance.
- Appropriate financial, commercial, legal and other specialist expertise is obtained, including from external sources, and due diligence completed on any important or novel decision.
- Committees and individuals charged with governance have the appropriate information, support, experience and expertise to perform their role.
- Proper member oversight (as shareholders) of companies and partnership bodies, in accordance with the [Local Authority Company Review Guidance](#), and their existence is regularly and independently reviewed.
- Performance management and quality assurance information effectively measures outcomes and is frequently interrogated.
- Lessons are learned from complaints.

### **Indicators of potential failure**

- Significant weaknesses identified in annual audit reports, and/or statutory recommendations or a public interest report issued.
- A lack of appropriate action in response to allegations of corruption or maladministration.
- Political or ideological activity by officers in politically restricted roles

- Key decisions are made in informal meetings and are not effectively recorded, leading to a lack of clarity on who is responsible for them.
- Decisions made without seeking appropriate advice.
- Decisions are revisited or not fully implemented in a way that is not transparent.
- Scrutiny functions are undermined without the ability to effectively monitor or call-in decisions or influence overall strategy.
- Internal audit does not meet PSIA standards and fails to consider identified high risks.
- The effectiveness of the audit committee is undermined and there is not regard to CIPFA's guidance on audit committees.
- There are no meaningful risk registers at a corporate level and risks are not owned by senior leaders. Risk registers appear to downplay some risks and lack action to mitigate risk.
- Performance management information is not consistently used, does not measure outcomes where relevant and underperformance is not effectively addressed.
- Excessive secrecy and failure to apply councillors' need to know.
- A refusal to investigate allegations of breaches of Member/officer codes of conduct.

## **4. Culture**

### **Description**

Culture describes how the established governance procedures and leadership are exercised in practice, whether they are respected by the letter or in spirit.

The culture of a local authority is determined by an agreed set of shared values, ethics and beliefs, how decisions are made, as well as how elected members and officers behave, interact and carry out their roles.

The organisation should act as one, rather than in siloes, with a cohesive sense of one authority running through all operations.

### **Characteristics of a well-functioning authority**

- Members and officers promote and demonstrate the highest ethical standards and appropriate working behaviours through established shared values and ways of working.
- A culture of cooperation, respect and trust between members and officers, and between departments exists, along with a commitment to transparent decision-making.
- A culture of compliance with legislation, strategies, policies and procedures throughout the organisation.
- Civil working relationships (and communication) between Group Leaders despite political disagreements.
- A commitment to promoting transparency and sharing information with the public.
- The existence of a proactive and welcoming attitude to external challenge and scrutiny.
- Decision-making is taken at the right level, with staff empowered to do their jobs consistent with the scheme of delegation.
- Respect for a councillor's need to know and enquire.
- Appropriate processes are in place to address issues such as harassment and bullying.
- An accessible whistleblowing policy, of which there is wide awareness and confidence that it will work.
- Demonstrable steps to engage openly and honestly with staff.

#### **Indicators of potential failure**

- An environment which allows for widespread failure to follow due process, the constitution, and codes of conduct.
- Risks are covered up rather than identified to protect reputations.
- A lack of appropriate action in response to allegations of corruption or maladministration.
- The respective roles of members and officers, and the interface between them, are rejected or misunderstood, and over-involvement of members in operational decisions or of officers in setting strategic political vision.
- A culture of bullying, distrust and broken relationships exists.
- The organisation is unable to respond effectively to issues because processes and procedures have become overly bureaucratic rather than being focussed on assurance and robust governance.
- Under- or non-engagement of the standards regime, with doubt cast on its credibility and legitimacy.

- Disciplinary and complaints systems are not deployed, leading to a sense that certain individuals can act improperly with impunity.
- High numbers of staff grievances and staff turnover due to morale issues.
- High numbers of standards complaints by members against members are upheld.
- Poor outcomes identified from staff surveys.
- A culture of secrecy and overuse of urgency arrangements, confidential or delegated action reports and a failure for such reports to be reported in a form which allows scrutiny.
- Members and officers have limited understanding of declarations of interest and gift/hospitality registers, which are not monitored or regularly updated.
- Published documents are hard to find or drafted to obscure certain points.

## **5. Use of resources**

### **Description**

An authority must have in place and properly deploy an effective internal control environment to safeguard the use of resources, and clear and effective processes to secure value for money. It must have appropriate financial management, reporting and regulation arrangements in place, in accordance with CIPFA's Financial Management Code, to govern the strategic and operational management of its investments, funding, assets and companies. This includes ensuring it has the appropriate skills and capacity in place, commensurate with the complexity of its finances, using specialist expertise when needed.

Authorities must comply with the Prudential Framework in making investment and borrowing decisions and not take on excessive risk. They should have effective systems for identifying, reporting, addressing and reviewing financial risk and have consideration of CIPFA's Financial Resilience Index.

Investment decisions must have a commensurate level of scrutiny, transparency and approval to make sure that officers and members fully understand the risks.

Financial management and reporting should be supported by robust financial systems, record keeping and quality assurance, with appropriate use of specialist expertise and independent assurance when needed.

Authorities should respond to audit recommendations and address issues identified in a timely way.

Capacity constraints should be identified and recruitment to fill key posts prioritised. Succession planning should be considered, with a longer-term view as to when there might be a gap in, experienced senior officers. Special severance payments should only be considered in exceptional cases.

#### **Characteristics of a well-functioning authority**

- The financial strategy and budgets are clearly aligned with strategic priorities and there is a robust process for reviewing and setting the budget.
- The workforce and fixed assets are managed efficiently and effectively, with clear and credible strategies demonstrating how services will be delivered in the future, with an effective system for performance management.
- A robust system of financial controls and reporting exists, which provide clear accountability and ensure compliance with statutory requirements and accounting standards.
- Compliance with the Prudential Framework, a clearly presented Investment Strategy, Capital Strategy and Minimum Revenue Provision (MRP) policy exists.
- A clear strategy exists to maintain adequate reserves.
- There is collective accountability for the budget and medium-term financial plan, rather than a siloed approach to management.
- There are regular financial reports to Cabinet and training is available for all members on finance.
- Robust systems are in place to identify, report, address and regularly review financial risk.
- Sustainable corporate functions including procurement and IT which deliver value for money.
- The Audit Committee has the knowledge, skills and independent expertise to provide robust challenge and ensures effective controls are in place and issues addressed.
- The purposes of companies are carefully considered and regularly reviewed, with effective governance and oversight arrangements in place.



- Effective project management of projects to enhance governance and effective use of resources.

#### **Indicators of potential failure**

- Absence of a deliverable medium-term financial plan, approved by Cabinet or finance committee (as appropriate) and Full Council.
- Council staff undertaking part-time work for full-time pay without compelling justification.
- Consistent overspends, frequent use of virements, no credible plan to reduce unaffordable debt and maintain sustainable finances, recurrent non-delivery of savings.
- Avoidance of/failure to implement difficult budget decisions.
- No evidence of transformation to create efficiency savings.
- Lack of a regular review of the adequacy of reserves and the unplanned use of reserves in-year to balance an outturn position.
- Unlawful or excessively risky borrowing and investment practices with inadequate risk management strategy in place for losses.
- Failure to manage the risks associated with companies, joint ventures and arms-length bodies.
- Issuance of a Section 114 Notice.
- Audit report identifies significant weaknesses in sustainability, and/or statutory recommendations or public interest report issued.
- Late publication of unaudited and audited financial statements, a modified audit opinion that indicates significant financial reporting or financial management issues, audit recommendations ignored.
- High dependency on high-risk commercial income for service delivery and balancing budgets.
- Non-compliance with accounting requirements, including MRP.
- Not fit for purpose finance function with limited capacity/capability.
- Underinvestment in corporate services, which affects capacity to deliver and succession planning.
- Inefficient or uncompetitive procurement arrangements that do not deliver value for money.
- IT that is not capable of doing the job for which it is designed.
- No presentation on financial performance/position to members or proper consideration of the annual financial report.

## 6. Service delivery

### Description

Well-run local services are customer- and citizen-focused, and meet the needs of diverse communities. They should improve outcomes for the people who use them and achieve the best balance of cost and quality (having regard to economy, efficiency and effectiveness).

Service plans should be evidence based and clearly aligned to the local authority's priorities and strategic plans, which will reflect the priorities identified through community planning. Services should take account of feedback from citizens and service users, and be scrutinised by a transparent and robust performance framework.

Poor individual services can often be an indication of broader governance and financial weaknesses within an authority.

Equally, corporate governance failure almost certainly will at some point negatively impact how services are delivered locally, in terms of missed opportunities or silo working and a failure to make strategic connections.

Local authority data, the assessments of other government departments and service regulators and ombudsmen identify whether services are being delivered efficiently and effectively, and whether authorities are responsive to customer complaints.

Authorities should benchmark service provision with comparable authorities, for example by using the metrics available on [Oflog's Local Authority Data Explorer](#).

### Characteristics of a well-functioning authority

- Service plans are clearly linked to a local authority's priorities, strategic plans and longer-term planning – a golden thread that runs through to individual objectives and accountability.
- Service delivery is evidence-based, customer and citizen focused, and meet the needs of different groups within the community.
- Users are satisfied with the level and quality of services provided.
- The authority has an effective and accessible complaints process and provides appropriate redress.

- Service improvements recommended by regulators and the Ombudsman are implemented at the earliest opportunity.
- The authority has complete, timely and accurate data, and the skills to interpret it, to inform decisions.
- There are clear and effective mechanisms for scrutinising performance across all service areas. Performance is regularly reported to the public to ensure that citizens are informed of the quality of services being delivered.
- Procurement processes ensure economic, efficient and effective outcomes of contract procurement and management.
- The authority achieves the best balance of cost and quality, considering the resources available, in delivering services, having regard to economy, efficiency and effectiveness.
- The local authority takes an innovative approach when considering how services will be designed and delivered in the future.

#### **Indicators of potential failure**

- Significant weaknesses identified in the annual audit report for economy, efficiency and effectiveness, and/or statutory recommendations or a public interest report issued.
- Critical reports from regulator, inspectorate and/or ombudsman show failings which may have resulted in intervention by other government departments.
- Intervention from other government departments is not delivering results.
- A high rate of upheld complaints made to Ombudsmen and the lack of an action plan(s) to address areas of concern.
- Data quality is poor and there is a lack of capacity or capability to interpret it to inform decisions.
- Services data suggests poor performance and outcomes compared to similar local authorities.
- Transformation is in name only. Opportunities for efficiency savings and improvements are not assessed in a meaningful way. Unusual or novel solutions are pursued that lack rigour or adequate risk appraisal.
- The approach to commissioning, contracting and contract management is weak, resulting in poor quality public services that do not represent value for money.
- Excessive use of contract Standing Order waivers.
- Poor tracking of benefits realisation on service improvement.

## 7. Partnerships and community engagement

### Description

Driving local economic growth, promoting social cohesion and pride in place is increasingly dependent on the effectiveness of partnerships and collaborative working arrangements with a range of local stakeholders and service users.

Authorities should have a clear understanding of and focus on the benefits that can be gained by effective collaborative working with local partners and community engagement. Partnerships can maximise opportunities for sharing resources, achieving outcomes and creating a more joined-up offer that meets the needs of residents and local service users. Stronger and more effective partnerships can also lead to better community engagement, for example working through partners to engage more effectively.

Appropriate governance structures should be in place to oversee these arrangements, and the process of consultation and engagement should be inclusive, open and fair. There are statutory requirements on local authorities to engage with Integrated Care Partnerships, Integrated Care Boards, Community Safety Partnerships, safeguarding adults and children's boards, Youth Offending Management Boards and many others. There are also [statutory best value requirements](#) around consultation and on considering the social value of services when reviewing service provision. An inclusive approach that accepts challenge is an indicator of a confident organisation.

### Characteristics of a well-functioning authority

- There is a shared vision for the local area which has been co-produced with partners, businesses and communities to maximise resources and ensure best value across service areas.
- An organisational culture exists that recognises the value of working with public sector systems and local partners to improve policy development, local economic growth and investment, better services, and customer-focused outcomes.
- There is early and meaningful engagement and effective collaboration with communities to identify and understand local needs and assets, and in decisions that affect the planning and delivery of services. In some cases, this involves the co-design and/or co-production of services.

- Evidence of joint planning, funding, investment and use of resources to demonstrate effective service delivery, but transparent and subject to rigorous oversight.
- Partners and local residents are involved in developing indicators and targets, and monitoring and managing lack of performance. The authority may be beginning to experiment with more participative forms of decision-making.
- The authority drives social and environmental value in their place through mechanisms like procurement and employment.

#### **Indicators of potential failure**

- Lack of appropriate governance in partnership arrangements.
- Weak ambition or unrealistic or infeasible plans fails to seize opportunities for building prosperity and opportunity for local people and businesses, promote social cohesion and pride in place.
- A lack of meaningful consultation and engagement, including with communities that are representative of the diversity of the local area.
- Poor outcomes identified from resident or partner engagement.
- Poor or non-existent communication with partners on issues impacting on their business.

## **5. Assurance and early engagement**

27. The department and the local government sector, with others, are responsible for the local government accountability system, with the department's Accounting Officer tasked with ensuring this system remains robust. A key element of this is making sure that the public is protected from instances of local authority failure.

28. The department'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 7 best value themes identified in [section 4 of this guidance](#) provide the analytical framework for this assessment. The information reviewed combines the use of:

- National data metrics, including from Oflog's Local Authority Data Explorer
- 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
- Residents' and MPs' letters where they raise concerns under the Best Value Duty

29. The department, working alongside the Financial Reporting Council (FRC) in its role as incoming shadow system leader for local audit, engages with local authority auditors. The department also works closely with other organisations in the local audit system, such as the National Audit Office (NAO) which, through the Code of Audit Practice, outlines auditors' responsibilities to report on local public bodies' arrangements for securing value for money through economy, efficiency and effectiveness in the use of their resources, as well as auditors' powers to make statutory recommendations and issue Public Interest Reports.

30. The department is committed to working in partnership with other government departments to share intelligence on common challenges, ensure a co-ordinated and collaborative approach across government, and to be assured of local authorities' compliance with the Best Value Duty. Government departments set and monitor performance against their own standards and failure to meet these standards should be first managed by the relevant department directly, such as the Department for Education (DfE), the Department of Health and Social Care (DHSC), the Department for Environment, Food and Rural Affairs (Defra), Department for Transport (DfT), and the Home Office. However, in these circumstances if concerns continue for two or more years despite local attempts to improve and there is evidence available, the Department for Levelling Up, Housing and Communities will consider whether the lack of improvement constitutes failure to meet the Best Value Duty.

31. The department has recently taken additional powers of intervention through the Levelling Up and Regeneration Act 2023. These powers 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 Total Service Expenditure)
- Proportion of commercial investments
- Types of debt (e.g., novel credit arrangements and loans)
- Not setting aside adequate Minimum Revenue Provision (a statutory duty to make sufficient provision to repay debt)

32. Close engagement with government departments is particularly important when an authority of concern is already subject to statutory intervention. The Secretary of State for Levelling Up, Housing and Communities will consult with other Secretaries of States prior to using best value powers to start an intervention where another department already has inspection or intervention frameworks to assess and further understand any wider context. This does not compromise the Secretary of State's independent legal authority to exercise best value powers under the 1999 Act.

33. Collating the information outlined in the paragraphs above enables the department to gain a deeper understanding of those authorities that may be facing challenges and showing some of the indicators of potential best value failure set out in [section 4 of this guide]#defining-best-value). This could mean that those authorities may not be properly complying with the Best Value Duty. In some circumstances, evidence of past failure may also be taken into account by the Secretary of State in deciding whether to exercise his or her statutory powers. The department also engages with a range of other non-departmental organisations working with the local government sector.

34. Where the department becomes aware of quantitative or qualitative indicators of potential failure being met, officials from the department may look to engage constructively with the local authority to provide an opportunity to understand their organisational challenges in relation to governance, finances and service delivery, including local partner and market delivery, and to gain assurance of how they are being managed. The purpose of this form of early



engagement is to prevent any challenges experienced by the local authority from escalating by seeing how the authority is engaging with, or plans to engage with, sector support and identifying what form of additional support (if any) is needed. Local authorities demonstrating early indications of failure may also be invited to discuss their arrangements for securing continuous improvement with the minister responsible for local government. Where sufficient assurance is not provided, the department may write formally to obtain assurance that the authority is taking steps to manage its challenges. This may include the formal issuance of a Best Value Notice, the models for which are set out below.

### **(Non-statutory) Best Value Notice**

A senior civil servant, on behalf of the minister with responsibility for local government, writes formally to the Chief Executive of an authority, copied to the Section 151 Officer and Monitoring Officer, to state the department's concerns on the available evidence and to set out the department's expectations of the authority in providing assurance of progress. The Notice will request that the authority engages directly with the department to provide assurance of improvement. This engagement could include requesting that the authority provides a timebound improvement plan containing details of the arrangements the authority has made and proposals to secure the improvement needed. Where an improvement plan is already in place, officials may specify the need for further information, ongoing engagement, or greater assurance of that plan. The Notice may also request that the authority reports back to the department at specified junctures.

The department may challenge an authority's improvement plan if it is considered insufficiently robust, feasible or timely. Officials will also determine progress against the authority's improvement plan, based on the evidence provided by the authority and may draw on sector peer support to do so. Further action may be needed if the requested information is not provided to the department by a specified date or if progress is not satisfactory.

The Notice will normally remain in place for 12 months, after which time, should the department deem it necessary to continue to seek assurance of the authority's improvement progress, it will be reissued. The Notice may be withdrawn or escalated at any point based on the available evidence.

To ensure the authority's improvement work is transparent and open to external scrutiny, the department will publish Best Value Notices on gov.uk and will expect the authority to publish all related documents on its website.

Best Value Notices provide an opportunity for early engagement with an authority that is exhibiting indicators of potential best value failure and where there is confidence that the authority may have the capability and capacity to make its own arrangements to secure continuous improvement. They also ensure the authority's improvement work is transparent and open to external scrutiny. Best Value Notices may also be used to obtain assurance from an authority that has previously been subject to intervention that they will continue to meet their Best Value Duty, or as a form of longer term non-statutory intervention where there is evidence of limited best value failure and confidence that the authority has the willingness, capability and capacity to leads its own improvement.

**Example:** Best Value Notices were issued to Cambridgeshire and Peterborough Combined Authority and Middlesbrough Council in January 2023, setting out the department's concerns and the importance of pace and rigour in delivery of their locally led improvement frameworks. The Notices were reissued at the end of the initial 12-month period for a further 6-month period.

### **Best Value Notice and requirement to provide information under section 230 of the Local Government Act 1972**

A Best Value Notice (as described above) is issued stating the department's concerns on the available evidence and requiring the authority, under the general power in [section 230 of the Local Government Act 1972](#), to provide relevant information.

Section 230 of the 1972 Act requires local authorities (including combined authorities) to send the Secretary of State any information with respect to their functions that the Secretary of State may require or may be required by either House of Parliament. Statutory Best Value Notice may only be issued to those authorities to which section 230 of the 1972 Act applies.

Failure to engage with the department and to provide the requested information may lead to further action.

Alongside requesting information using section 230 of the 1972 Act, the department could also request that the authority provides a timebound improvement plan containing details of the arrangements

the authority has made and proposals to secure the improvement needed.

The Notice will normally remain in place for 12 months, after which time, should the department deem it necessary to continue to seek assurance of the authority's improvement progress, it will be reissued. The Notice may be withdrawn or escalated at any point based on the available evidence.

Statutory as opposed to non-statutory requests for improvement information are issued when an authority is unwilling to engage constructively and promptly comply with requests for information from the department. They provide an opportunity for the department to engage on a statutory basis with an authority that is exhibiting early indicators of potential best value concern and where there is limited confidence in the authority's willingness to make arrangements to secure continuous improvement

**Example:** This power has yet to be used.

## **Exceptional financial support**

35. 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 councils for assistance to manage financial pressures that they considered unmanageable.

36. Support provided via this framework is usually provided in the form of a capitalisation direction. Capitalisation directions permit a local authority to meet revenue costs through capital resources, for example by taking out additional borrowing, or by using capital receipts generated by asset sales. Using capital resource for revenue purposes is outside the normal rules of local authority accounting and, as such, ministers will only consider agreeing to this in exceptional circumstances.

37. It is a principle of the exceptional financial support process that authorities meet the costs of support over time, as far as possible. The department will work with a relevant authority, and commissioners if appointed, to consider all available options for managing costs locally, including additional cost reductions. In all cases, the government has set a clear expectation that the

authorities continue to manage and mitigate their financial pressures. In all cases, the government expects these local authorities to take into account the need to reduce wasteful expenditure and ensure every area is making best use of taxpayers' money.

38. Any support is provided on an exceptional basis, and on the condition that each local authority is subject to an external assurance review which is focused on, at a minimum, their financial position and their ability to meet any or all of the identified budget gap without additional borrowing. Authorities are expected to respond effectively to the challenges and recommendations highlighted in their external assurance reviews and provide regular updates to the department on progress.

39. The department continues to keep the financial position of local authorities under close review and any authority concerned about its financial position should engage with the department on a confidential basis. The department is clear, however, that any financial support agreed will be provided openly and transparently and any decisions to provide such support will be published on GOV.UK.

### **The role of the Office for Local Government**

40. To support the improvement of local government further, we have established the Office for Local Government (Oflog). Oflog is providing authoritative and accessible data and analysis about the performance of local government and supporting its improvement, thereby increasing accountability in the local government sector. It aims to increase understanding about the performance of local authorities, identify local authorities that are at risk of failure but have not raised the alarm themselves, and support local government to improve performance, productivity, and value for money.

41. Oflog's Local Authority Data Explorer is a crucial tool for councils and combined authorities to understand their own performance compared to other statistically similar authorities. The Data Explorer will serve as a useful prompt for local authorities to identify potential areas for improvement and other councils with which to share best practice. It will also help citizens hold local leaders to account and increase transparency.

42. There is a key role for Oflog to play in better understanding what the early warnings signs of failure in local authorities are, and how it can enable more effective prevention. Oflog's early warning system will have two main components. The first is a new internal desk-based system (using both quantitative data and soft intelligence) to identify councils and combined authorities potentially at risk of developing serious problems of leadership, governance, or culture. The second is a set of 'early warning conversations' with some councils and combined authorities identified as potentially at-risk, to establish the type and degree of risk, and make recommendations for improvement.

43. There are many examples of exemplary performance in local government. Oflog intends to play a role in identifying, celebrating and promoting excellence, cultivating a peer-to-peer learning environment. Oflog has already commenced a series of webinars with local authorities to share best practice across the sector, and in the longer term, Oflog aims to offer new analytical insights and reports on good practice and provide expert support to strengthen council performance.

44. Oflog does not have powers to intervene in a local authority in the manner of a regulator. The standards, models and powers for interventions set out in this guidance belong to the department.

45. The department's best value analysis to inform judgements to inspect or intervene will, however, be improved through Oflog's objective to increase transparency of performance in the sector. The organisation's early warning system and support aim to complement and work with (not duplicate nor conflict with) other mechanisms for warning and support in the wider local government ecosystem.

46. Oflog will maintain close relationships with other bodies involved in overseeing and supporting the performance of local government to regularly take stock of the wider regulatory and stewardship environment to ensure its work complements the work of others. This guidance may be updated as Oflog's role continues to develop.

## **6. Evidencing failure**

47. 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, based on the department's assessment using the 7 best value themes identified in [section 4 of this guidance](#), an authority is found to be 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 appoint a person to carry out an inspection of the authority's compliance with the Best Value Duty. The Secretary of State may also direct the inspector to provide recommendations for improvement.

48. Failure, or the risk of future failure, can also be evidenced in other types of expert independent assessments. These include reports commissioned by local authorities, those from other recognised independent bodies, for example external auditors or inspectorates, or government commissioned reviews, such as an external assurance review of a local authority's financial management and resilience, and/or governance, since financial failure is often a presenting symptom of broader failure. These external assurance reviews have in the past been commissioned by the department following a local authority's request to the department for support via the exceptional financial support framework (see [section 5 of this guide](#)). They provide a valuable source of evidence to determine the underlying drivers of the authority's request for financial support and what remedial actions are required by the local authority to achieve financial sustainability. The assessments may also identify whether there is cause for concern in other areas of the local authority which may necessitate further investigation, for example in relation to leadership, governance and service delivery.

49. [Annex A](#) sets out the process for statutory inspection in more detail.

### **Best Value Inspections**

Best Value Inspections provide the Secretary of State with a formal assessment of whether an authority is complying with the Best Value Duty. They can also help determine the steps required by an authority to address the concerns or issues identified by the inspection, either on their own or with the support of external intervention.



The powers relating to a statutory Best Value Inspection are contained in [sections 10-13 of the 1999 Act](#). They cover the appointment of an inspector and (if required) an assistant inspector, the powers and duties of an inspector particularly around access to documents, the requirement of the authority being inspected to pay reasonable fees to the inspector, the submission of the inspector's report to the Secretary of State and its subsequent publication.

An inspector is appointed by the Secretary of State to lead an inspection, based on specific experience and expertise. The scope of the inspection is published, which will focus on specific functions of an authority in relation to its governance, financial management, service delivery or a combination.

Inspections may be appropriate when an authority is exhibiting some characteristics that may indicate best value failure, including taking no steps to acknowledge or address ongoing challenges, but where there is insufficient evidence available for the Secretary of State to make a judgement. However, this is not an exhaustive description of scenarios where an inspection may be appropriate.

**Example:** Following a series of police investigations into corruption and misconduct in public office, a [Best Value Inspection of Liverpool City Council](#) was conducted from December 2020 to March 2021. The matters covered by the inspection were the authority's planning, highways, regeneration and property management functions and the strength of associated audit and governance arrangements.

### **Independent reports**

Other independent reports may also provide evidence of best value failure or risk of failure, and the extent of that failure. There are a range of independent expert assessments which may satisfy the Secretary of State's standards with regards to scope, independence and quality. They include government commissioned reports such as external assurance reviews, reports commissioned by local authorities, or those from other recognised independent bodies, for example auditors and inspectorates. The progress reports of local improvement boards are also very useful sources of evidence. The Secretary of State may decide to intervene in an authority based on the evidence contained in these independent reports.

An independent report may be commissioned when an authority is exhibiting some characteristics that may indicate best value failure. The findings of an independent expert analysis can help determine the steps required by an authority to address the concerns or issues



identified in that report, either on their own or with the support of external intervention. However, this is not an exhaustive description of scenarios where an independent report may be appropriate.

**Example:** Slough Borough Council requested exceptional financial support in 2020/21 and a condition of that support was an external assurance review of the Council's financial position and wider governance arrangements. The review, which was similar to a Best Value Inspection in terms of scale, scope and quality, identified a range of concerns, including evidence of best value failure, and included recommendations for improvement. Based on this evidence of best value failure, the Secretary of State took the decision to appoint commissioners to Slough.

## 7. Models of intervention

### Non-statutory measures

50. Non-statutory measures aimed at ensuring compliance with the Best Value Duty do not involve the Secretary of State using the powers in the 1999 Act. They are usually appropriate for addressing failure or risk of future failure that does not appear to be systemic in an authority and where that authority has the willingness, capability and capacity to improve. Authorities that can demonstrate how they are addressing failure, and where the department is confident that continuous improvement can be sustained without statutory intervention, are most likely to be subject to non-statutory measures. These arrangements may be initiated by the authority or at the department's request. The Secretary of State retains the option to move to statutory intervention if an authority's improvement progress is not satisfactory.

### Improvement boards

The establishment of an improvement board, panel or taskforce made up of individuals with relevant experience and skills, who will provide support, advice and challenge to an authority. As the board does not have any statutory powers, its members are involved in an advisory capacity.

Membership of the board and its terms of reference are usually determined by the authority but can also be proposed by the department (in agreement with the authority), depending on the level of assurance required by the Secretary of State. The department will need to be confident the authority will make sensible appointments and set sufficiently robust terms of reference. Where it does not have that confidence, the department may make its own appointments and direct the authority to follow the advice of the improvement board, triggering it to move to a statutory footing under [section 15\(5\) of the 1999 Act](#) (see Directions to a best value authority, below).

Improvement boards may be used when an authority demonstrates failures or risk of future failure which is not systemic and there is confidence that the authority has the willingness, capability and capacity to sustain continuous improvement, but external expertise and challenge would result in more efficient recovery. However, this is not an exhaustive description of scenarios where an improvement board may be appropriate.

**Example:** A condition of Wirral Metropolitan Borough Council's request to the department for exceptional financial support in 2020/21 was completion of an external assurance review. This Review identified a range of concerns, including poor financial governance and management and the need to strengthen oversight and scrutiny. The Council agreed to implement the Review's recommendations and established a locally led improvement panel to provide oversight of its improvements and report regularly to the Council and Secretary of State.

### **Sector-led intervention**

An authority of concern may be partnered with another authority with a track record of delivering good governance and effective service delivery in the area(s) of concern. This arrangement does not change local lines of accountability, with the host authority maintaining responsibility for the delivery of its functions. A supportive authority will be asked by the Secretary of State to assist, and the success of the local partnership and the authority's improvement is set and monitored by the Secretary of State. The option of alternative forms of intervention remains if progress is insufficient.

Sector-led intervention may be appropriate when an authority demonstrates failures or risk of future failure but is prepared to accept support from a willing and able local partner authority with the capacity to assist its improvement journey. It may be helpful if the two authorities share geography and strategic partners. However, this is

not an exhaustive description of scenarios where a sector-led intervention may be appropriate.

**Example:** Evidence of service and governance failures, and a breakdown of relationships at West Sussex County Council contributed to the resignation of the Leader in early autumn 2019. The authority agreed with the Secretary of State to develop a local partnership approach to improvement and accepted a comprehensive support package from neighbouring East Sussex County Council and the Local Government Association. This involved establishing a strong executive leadership team which would report directly to the Secretary of State on progress and a programme of member-to-member support, which played a key role in the authority's improvement. East Sussex's Chief Executive formally became joint Chief Executive of both authorities in January 2020 and the Secretary of State monitored improvement progress until early 2021.

## Statutory intervention

51. Statutory directions under [section 15 of the 1999 Act](#) can be made in relation to authorities where, from the available evidence, the Secretary of State is satisfied that the authority is failing to comply with the Best Value Duty. There are two main models of statutory intervention, and the Secretary of State will determine in each case what is the most appropriate option, based on the evidence of failure.

52. A statutory intervention – either with directions to the authority only or commissioner-led with directions to the authority – will usually be preceded by an announcement that the Secretary of State is 'minded to' intervene. This allows for a period of representations from the authority and other interested parties (generally 10 working days) on the reasoning and evidence behind the proposed intervention and on the proposed package itself. This process can however be bypassed in exceptional situations where there is sufficient urgency. If, after considering any representations received and all the relevant available evidence, the Secretary of State still considers that a statutory intervention is necessary, he will make Directions as set out in the minded to letter (subject to any amendments arising from representations received).

53. [Annex A](#) sets out the process for statutory intervention in more detail.

### **Directions only statutory intervention**

Under [section 15\(5\) of the 1999 Act](#), the Secretary of State may direct an authority to take any action which he or she considers necessary or expedient to secure its compliance with the Best Value Duty. This action may be anything the Secretary of State deems necessary. This might include, for example, the preparation of an improvement plan and the content of that plan, the requirement to report on the delivery of that plan, and the establishment of an improvement panel to provide external support and challenge. Directions can be issued on their own and without the simultaneous appointment of commissioners. They are time-limited and will automatically lapse unless further directions are issued.

The Secretary of State may also direct an authority to carry out a review of how it exercises specific functions (section 15(2) of the 1999 Act) or direct a local inquiry to be held into the exercise by the authority of specified functions (section 15(3) of the 1999 Act).

The decision to direct an authority to take certain actions is based on evidence, such as from an inspection or another comparable source, confirming that best value failure has occurred and there is limited confidence in the authority's ability to improve independently. In exceptional circumstances where the Secretary of State is satisfied that the need for action is sufficiently urgent, directions can be issued without a minded-to period.

Directions to a local authority may be appropriate where there is evidence of significant but not widespread best value failure in the authority, and that authority has some capacity but limited commitment to improve on its own. However, this is not an exhaustive description of scenarios where the use of Directions may be appropriate.

**Example:** To ensure the transformational work being undertaken by the London Borough of Croydon continued at sufficient pace, the Secretary of State issued Directions in July 2023 to amend its improvement plan, to report periodically to the Secretary of State on its delivery and to support the Improvement and Assurance Panel, which had the effect of putting that Panel on a statutory footing.

### **Directions for a commissioner-led intervention**

Under [section 15\(6\) of the 1999 Act](#), the Secretary of State may direct that some or all of the functions of an authority be exercised by the Secretary of State or his or her nominee (commissioners) for a specified period until that authority is in a sustainable position to comply with the Best Value Duty. This may include the appointment of a managing director commissioner to provide additional capacity at the senior level, who can be appointed as Head of Paid Service, to aid implementation of an improvement plan and to drive the cultural change required.

Commissioners receive powers to exercise functions to accelerate improvement, including default powers relating to governance, finance and senior appointments. These powers have not been exercised frequently by commissioners as it is the role of commissioners, as far as possible, to guide members and officers to make the right decisions and be accountable locally for those decisions.

Commissioners are appointed by and directly accountable to the Secretary of State. Their fees are set by the Secretary of State and met by the council under intervention, and they must adhere to the Seven Principles of Public Life (the Nolan Principles).

The authority has a statutory requirement to comply with any instructions of the Secretary of State or their nominated commissioner in relation to the exercise of specified functions and provide such assistance as the Secretary of State or the commissioner may require for the purpose of exercising that function.

Commissioners will be expected to establish an exit strategy for returning functions to the authority (see [section 8 of this guidance](#)) and ahead of Directions expiring, will provide a judgment on the authority's progress in meeting its Best Value Duty. Commissioners are also expected to create their own governance and operational arrangements, and to set an example to the authority around transparency in decision-making by publishing key decisions and the minutes of any Boards they create. Commissioners provide regular reports to the Secretary of State on the progress made by the authority and any concerns at defined intervals and these reports, along with ministers' responses to them, are published on gov.uk. They are supported by a Chief of Staff, who provides support from the department.

Concurrently, the authority is usually also directed to take any action which the Secretary of State considers necessary and expedient to

secure its compliance with the Best Value Duty (see Directions to the best value authority intervention model above).

Commissioners will be expected to give their views to ministers on the scope of their powers, which may result in an extension or reduction in the scope of the directions mid-intervention.

It is also possible for the Secretary of State to appoint an authority as an inspector or commissioner instead of a named individual.

Directions for a commissioner-led intervention may be appropriate where there is evidence of best value failure in an authority, and that authority has limited capacity and commitment to improve on its own. However, this is not an exhaustive description of scenarios where the appointment of commissioners may be appropriate.

**Example:** Following a Best Value Inspection of Northamptonshire County Council, which found evidence of poor financial management and a culture that discouraged challenge, the Secretary of State appointed commissioners in May 2018 to exercise all functions associated with the governance and scrutiny of the authority's strategic decision making, of strategic financial management, and of functions relating to the appointment and dismissal of statutory officers. The commissioners remained in place until March 2021 when the authority and neighbouring authorities were abolished and replaced with the two newly created unitary authorities of North Northamptonshire and West Northamptonshire.

## **Diagram 2: Starting an intervention**

### **Assurance monitoring**

1. Is the authority experiencing significant challenges?
2. Are we assured the authority is managing its challenges?

### **Early engagement**

3. Is the authority willing able to provide an improvement plan and report progress? (Yes - Best Value Notice; No - Best Value Notice and section 230 requirement to provide information)
4. Are we assured the authority is managing its challenges?

### **Evidencing failure**



5. Does independent and robust evidence of failure exist?
6. Will the authority agree to an independent review? (Yes - Independent review; No - Best Value Inspection)

### **Models of intervention**

7. Is there evidence of Best Value failure? (No - Best Value Notice / Non-statutory improvement board / Sector led-intervention; Yes - go to next step)
8. Is that failure systemic? (No - Non-statutory improvement board / Local inquiry into exercise of specific functions; Yes - Directions only statutory intervention)
9. Is the authority able and committed to lead its own improvement? (Yes - Directions only statutory intervention; No - Commissioner led statutory intervention)

## **8. Exiting intervention**

54. Each intervention is unique and in determining whether and when an intervention should end, it is important to ensure that reasonable standards are applied that clearly relate to the nature of failure identified in that particular local authority. Local authorities are not expected to be perfect before an intervention ends. The aim of all interventions is to resolve incidents of failure to the point where the authority can demonstrate that it now has the capacity and capability to sustain its own journey of continuous improvement without the need for further external involvement. It is important that this is both demonstrable and well established. Commissioners or, where appropriate, chairs of statutory improvement and assurance boards are responsible for assessing the levels of risk and confidence that the Secretary of State can rely on when determining whether or not to end an intervention. This should be addressed directly in reports to the Secretary of State in advance of intervention directions expiring. Ultimately it is the Secretary of State's decision, based on the assurances provided to him or her by commissioners/board chairs when an intervention should end.

55. To assist in making a judgment it is essential that commissioners/board chairs and the authority work together from the outset to develop a clear road map which identifies what the intervention intends to achieve and the route the authority should



take to exit intervention, noting that this may change over time. This will enable the authority to focus its efforts on improvement, to share a sense of achievement and confidence, and to maintain momentum with progress. The details of that exit strategy will be unique to each authority experiencing intervention; it will depend on the nature of local failings and be sufficiently flexible to reflect the journey that the local authority is making. It will identify measurable criteria – “proxies for success” – in relation to individual functions and service areas which are specific and capable of being evidenced. The characteristics of a well-run authority, included in [section 4 of this guide](#), give an indication of how those criteria may look.

56. When sufficient improvement has been made and the authority can demonstrate it is able to sustain its own journey of continuous improvement, the Secretary of State will consider evidence from the commissioners/board chairs and any other relevant sources such as peer challenges before handing functions back to the authority. A turnaround programme that takes too long is likely to result in increased intervention. In a situation where progress has been made, commissioners/board chairs should consider steps to de-escalate the intervention prior to the Directions ending. De-escalating could include changing approach and/or reducing time spent at the authority which, once signalled to the Secretary of State, is at the discretion of commissioners/board chairs. De-escalation may also include the full or partial return of functions, depending on the level of progress made by the authority in specific areas, which would also require Secretary of State approval. For example, a function may be returned to the authority but with continued commissioner oversight, or a certain function(s) may be returned whilst others are retained by the commissioners until further progress is made.

57. When approaching the likely end of an intervention, it would be good practice if authorities establish a plan for continuing with improvement which commissioners/board chairs could include as part of their final report to the Secretary of State. An independent review may also be commissioned to give reassurance to the Secretary of State, as well as to the authority and local residents, on the progress made and to set the future improvement agenda for the authority to focus on. If commissioners/board chairs lack confidence in the authority’s ability to continue its own improvement journey unaided, they may recommend further intervention to provide continued assurance of progress to the Secretary of State. This could take the form of the Secretary of State withdrawing commissioners but requiring the authority to report on progress against an

improvement plan for a fixed period before completely ending the intervention.

## **Annex A: The end-to-end process of interventions**

### **Diagram 3: Strategic view of the intervention process**

#### **Assurance and early engagement**

The department's local government stewardship function, working closely with other government departments and the Local Government Association, continually reviews the health of local authorities' governance, financial management and delivery of corporate and key services.

The department engages with local authorities to understand their organisational challenges, gain assurance of how they are managing these challenges and help identify what form of support (if any) is needed.

Where assurance is not provided, the department may write to an authority stating its concerns and request that they provide a timebound improvement plan, report back to the department on progress and publish all related documents.

#### **Options:**

- Best Value Notice
- Best Value Notice and requirement to provide information under section 230 of the Local Government Act 1972

#### **Evidencing failure**

If an authority is exhibiting some characteristics that may indicate best value failure, including taking no steps to acknowledge or address ongoing challenges by engaging with sector-led improvement, 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.

Failure or the risk of future failure can be evidenced in other types of expert independent assessments, for example local authority-commissioned reports, auditor or inspectorate reports, or government commissioned reviews.

**Options:**

- Best Value Inspection
- Another independent assessment

**Best value inspection**

Where there are concerns, the Secretary of State can use powers under section 10 of the 1999 Act to appoint an inspector to carry out an inspection of the authority's compliance with the Best Value Duty in relation to specified functions.

Once an inspector has been identified by the Secretary of State, a formal letter of appointment will be sent to them, setting out the evidence leading to the inspection, the deadline for the Inspector's report and guidance on the areas the Inspector should focus on.

The Inspector's letter of appointment will be sent to the Chief Executive of the authority under inspection with a covering letter setting out the reasons for the inspection, details of the appointment, the deadline for the Inspector's report and a description of the requirements placed on the authority (access to documents, IT and records, payment of fees and expenses, provision of office space and general cooperation).

The Secretary of State will consider the findings and evidence set out in the inspector's report and decide appropriate next steps. This could be to:

- Continue close monitoring of the local authority by the department and offer appropriate targeted support, if the inspection finds no evidence of Best Value failure.
- Non-statutory intervention, if the inspection confirms limited best value failure and the authority has the willingness, capability and capacity to lead its own improvement.
- Statutory intervention, where failure is systemic and the Secretary of State has limited confidence in the authority's ability to improve independently.

### **Non-statutory intervention**

A form of non-statutory intervention may be appropriate if an authority demonstrates failures or risk of future failures that are not systemic and there is confidence that the authority has the willingness, capability and capacity to sustain continuous improvement, but external expertise and challenge would result in more efficient recovery.

Membership of an improvement board, panel or taskforce and its terms of reference are usually determined by the authority but can also be proposed by the department (in agreement with the authority), depending on the level of assurance required by the Secretary of State. The department will need to be confident the authority will make sensible appointments and set sufficiently robust terms of reference. Where it does not have that confidence, the department may make its own appointments, triggering the improvement board to move to a statutory footing (under section 15(5) of the 1999 Act).

#### **Options:**

- Improvement boards
- Sector-led intervention

### **Statutory intervention**

If an authority does not have the willingness, capability and capacity to improve without external support and, based on the evidence, the

Secretary of State is satisfied that the authority is failing to comply with the Best Value Duty, the Secretary of State's decision to intervene pursuant to section 15 of the 1999 Act will be communicated formally to the authority through a "minded to" letter issued by officials (unless the situation is sufficiently urgent). The decision will also be announced by a Statement (written or oral) to both Houses in Parliament, if Parliament is sitting. The "minded to" letter will set out the reasons underlying the proposed intervention package and, if the Secretary of State proposes to appoint commissioners, the likely extent of their powers.

The authority and other interested parties, for example, elected members and residents, will have the opportunity to make representations on the Secretary of State's proposals within a fixed time period (generally 10 working days). If, after considering any representations received and all the relevant available evidence, the Secretary of State still considers that a statutory intervention is necessary, the Secretary of State will make Directions as set out in the minded to letter (subject to any amendments arising from representations received).

The authority will be informed of the Secretary of State's decision by means of a letter from a senior departmental official to the Chief Executive which will also contain the final Directions and associated Explanatory Memorandum. The decision will also be announced by a Statement (written or oral) to both Houses in Parliament. Where appropriate, the Secretary of State will also appoint commissioners.

During the intervention, regular reports on progress to the Secretary of State will be expected. There may also be some consideration of changes to the original Directions, either to extend the powers or duration, or to hand back functions to the authority.

The statutory intervention will end when the authority can demonstrate that it now has the capacity and capability to sustain its own journey of continuous improvement without the need for further external involvement. The Secretary of State will consider evidence from the commissioners, where appropriate, and any other relevant sources before ending the intervention.

An independent review may also be required to give assurance to the Secretary of State, as well as to the authority and local residents, on the progress made and to set the future improvement agenda for the authority to focus on.

**Options:**

- Directions only intervention, including local review or inquiry
- Commissioner-led intervention

## **Annex B: Further statutory best value guidance**

[Revised best value statutory guidance on working with voluntary and community groups, and small businesses](#) (March 2015)

[Statutory guidance on the making and disclosure of Special Severance Payments by local authorities in England](#) (May 2022)

[Guidance on access agreements](#)