

*Formative Evaluation of the  
Take-Up and Implementation  
of the Well Being Power*

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*Annual Report 2006*

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Take-Up and Implementation  
of the Well Being Power  
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# SUMMARY

Part 1 of the Local Government Act 2000 provides local authorities with a discretionary power (the Well Being Power) to undertake any action to promote or improve the social, economic and environmental well being of their area.

This annual report details interim research findings from the ongoing evaluation of the take-up and implementation of the Well Being Power by local authorities. Key early findings include:

- **Understanding** of the Well Being Power is patchy at best with local authority lawyers having the most comprehensive knowledge. Awareness of the Power amongst partners and other stakeholders is generally low.
- **Take-up and implementation** of the Well Being Power has varied considerably. In a small number of local authorities it has been used as a power of 'first resort', in others as a 'gap filler' or a 'reassuring device'. In many it has not been used at all. Confident use often goes unrecorded. The power tends to be used in areas of discretionary activity rather than in support of mainstream services.
- **Rationale and context** – Two broad rationales for use are identified: 'specific instrumental use' and 'symbolic or expressive use'. The context in which the Well Being Power is taken up varies considerably. In some local authorities the Power is adopted in response to an impending crisis, while others adopt it in the 'network' context, stimulated by partnership working.
- **Community leadership** – Most local authority stakeholders agree that the Power is a useful tool in their community leadership role i.e. it gives them greater flexibility and capacity to act of behalf of the community. Strong community leadership is correlated with greater uptake of the power.
- **Organisational structure and innovation** – Local authorities with organisational structures that support a focus on cross-cutting issues combined with a culture of innovation are in better position to make use of the Well Being Power.
- **Not a stimulus** – Actual or potential uses of the Power are not widely discussed in local authorities. Thus the power is not used as a starting point for change, but typically emerges as a way of facilitating a solution that has already been proposed.
- **Resources** – Whilst awareness of the Well Being Power needs to be increased, so too do resources to facilitate use of the power.
- **Low priority** – The Well Being Power is widely considered to be relatively weak (providing only a partial relaxation of the *ultra vires* rule) and containing an uncertain message. It is not given a high priority at corporate or service levels.

By way of conclusion a preliminary set of policy recommendations are made, most of which focus on means to increase the awareness and effectiveness of the Well Being Power. The future direction of the ongoing evaluation is also laid out.

# CHAPTER 1

## Purpose of report

This annual report – part of the formative evaluation phase of the ‘Take-Up and Implementation of the Well Being Power’ research project – has been prepared for the Department for Communities and Local Government (DCLG) by teams at the University of the West of England, and University of Birmingham. It is intended to serve two main purposes:

- To report on the work undertaken and progress made between September 2004 and April 2005
- To provide a discussion of preliminary research findings in relation to the key research questions

This report follows the publication of two earlier reports arising from the research project – the ‘Baseline Report’ and the ‘Proposed Evaluation Framework Report’ – both of which were submitted to DCLG towards the end of 2004 and subsequently published on the DCLG website in 2005. For the sake of simplicity these are referred to in this report as the ‘BL Report’ and the ‘PEF Report’

# CHAPTER 2

## Work undertaken since baseline and scoping studies

### 2.1 DEMONSTRATION PROJECTS

We have completed the first five demonstration projects as specified in our PEF Report. The only minor change in the focus of the projects was that our intention to carry out a project that was jointly based in North Tyneside and Newcastle was, in the event, focused largely on North Tyneside. In each of the demonstration projects we have interviewed a number of local authority staff and councillors as well as representatives of appropriate partner organisations and examined relevant documentation. The projects have been written up in a form that supports and assists our analysis and they have therefore contributed significantly to this report. Information from the projects will now be used for public dissemination following discussion with DCLG.

The choice of demonstration projects has proved to be very useful to our overall evaluation in so far as they illustrate different uses of the Well Being Power in different kinds of local authorities operating within different local circumstances. However, none of the demonstration projects were based on a shire district council and, we will aim to correct this in future fieldwork. (See also ‘Case Studies’ below).

#### 2.1.1 Demonstration project summaries

##### Greenwich

Greenwich has faced a severe economic crisis related to a decade of de-industrialisation of the area, creating unemployment but allowing the emergence of regeneration land along the river. More recently it has been one of the authorities to benefit from inwards investment of largely private sector capital directed towards the regeneration of the Greenwich Waterfront and wider Thames Gateway sub-region. The council has capitalised on the ongoing regeneration activity in order to alleviate the severe unemployment in the area. The council considered ways of making its training arm more effective. The council could not itself play a more direct role in the employment business by placing staff and saw advantages of creating an arms length employment agency. The Well Being Power has been used to set up an employment agency, Gateway Employment, which has been established as a not-for-profit company limited by guarantee with 6 directors on its board. This initiative originated in the council’s economic development programme, which involves attracting new businesses and ensuring that local people benefit from job creation.

The Well Being Power was used in place of more specific powers. The decision was taken against the background of a Best Value Review and the practical experience of running Greenwich Local Labour and Business. During the decision-making process the aims of the company were outlined and emphasis was placed on the investment of surpluses in local initiatives. The projected savings to the council, and reduction in its reliance on commercial employment agencies, were key drivers.

The proposal was sent to lawyers at an early stage and support from the Council's finance department was also required. The key decision to establish Gateway Employment was made by Cabinet in April 2003, and legal work to establish the company then began.

### **Newham**

Newham is one of the most culturally diverse boroughs in the country with just over 50% of its population coming from ethnic minority communities. Some of the more established communities have seen a decline in their traditional employment opportunities in the dockside and rail industries. There are very high levels of social deprivation evidenced by poor health, low educational attainment, poverty and racial harassment.

The Well Being Power has been used by Newham Council to enter into partnership arrangements in a Local Improvement Finance Trust (LIFT) project. The LIFT project in Newham is a PCT led initiative to modernise its services and create new primary care facilities. The project is essentially a Private Financial Investment (PFI) scheme. It is an area project that spans three local authorities including Hackney, the City of London and Newham. Newham entered this project as a partner to co-locate some social care facilities (care for the disabled as well as mental health related services) in new premises.

The Council has three elements of participation – co-location of some of its services, making available and selling discounted land for the project, and providing planning permissions and assistance in the planning process. In addition, Newham Council supported the design process of the model for the new LIFT Company. It also made a symbolic investment of 2% in company shares to formalise its role in the PCT-led LIFT project. The project is considered innovative because of the new relationship between the Council and the PCT. This relationship not only entails the activities of joint project formulation, and operation, shareholding, land transactions and planning and human resource support, but also the joint development of a health strategy for Newham.

While the interest first came through the regeneration and planning personnel, due to the need for land, it was taken forward by the Social Services Department as an opportunity of providing integrated health and social care services.

### **North Tyneside**

In North Tyneside a Best Value Review of street lighting in 2000 identified growing concerns about the ageing lighting stock. The ring-fenced fund for street lighting only allowed 1% renewal. Overall coverage of street lighting was poor, the physical

infrastructure was outdated and the councils were failing to meet the requirement of replacement and repairs. The lack of facilities was impacting on community safety and neighbourhood decline.

The Well Being Power has been used on a 'belt and braces' basis in addition to the reliance on specific powers in the terms of a joint agreement between North Tyneside and Newcastle city councils to enter a joint Private Finance Initiative (PFI) for the regeneration of their entire jurisdictions' streetlights. Each local authority had been planning renewal separately and the joint initiative would bring benefit from economies of scale and pooling capacity and strength. The governance arrangements were important for the management of the project but also to define the nature of ultimate responsibilities. Newcastle City Council took the lead on legal advice and North Tyneside on finance. Both councils explained that they wanted to avoid the more traditional form of joint approach in which one authority would take the lead council role and carry the main risk, a joint venture or partnership.

The PFI agreement with the private contractor entailed the provision of green energy (for 3 years), 80% replacement within five years with eventual full replacement of streetlights, with higher density of area to be lit, as well as maintenance for a period of 25 years. The project was housed in the Department of Environment where it was conceptualised (jointly with Newcastle's counterpart department). Because it was seen to tackle both a community safety and regeneration agenda it was a widely supported project.

### Torbay

Until recently Torbay was experiencing both a corporate and functional crisis. The authority had received a poor CPA rating and there was a desperate desire to improve. A change in political and managerial leadership led to a range of changes including the creation of a public-private partnership. The authority's functional crisis related to the poor perception of its economic regeneration and development capacity, in particular failure to engage with the private sector, although performance in relation to obtaining external funding was also criticised. Therefore the council needed to find a radical new way of delivering on economic regeneration. As a result Torbay council used the Well Being Power to set up a public-private partnership, Torbay Development Agency Ltd (TDA), as a company limited by guarantee without share capital. This represented a fundamentally new approach for Torbay to address in an integrated way a variety of functions relating to tourism marketing and development, economic development and regeneration and the management and development of Torbay harbour and its three enclosed harbours.

Initially the Board of the TDA is acting in an advisory capacity to the Council and the organisation remains funded by the Council. However the TDA has been allowed to take the lead in developing an economic development strategy. It is anticipated that, as confidence and experience of these new arrangements grow, and as external funding opportunities are realised, the governance arrangements for TDA will change leading to the externalisation of the functions undertaken by TDA so that they are directly managed by the Board of TDA as an arms length company fully responsible for funding, staffing etc. This will also involve the transfer of assets from the Council to TDA.

## Wakefield

Section 2 of the Well Being Power has been used in Wakefield to purchase houses on an estate in rapid decline to facilitate speedy clearance of site and afford reasonable recompense to residents and owners, without going through the lengthy compulsory purchase (CPO) process. This estate – which was split equally between owner-occupied, housing association-owned and private landlord-owned residences – was overwhelmed by anti-social behaviour and drug-related problems resulting in many unfit or vacant homes leading to reduced market value of the remaining habitable houses. The council was keen to acquire and demolish the houses and re-house the remaining occupants. The prevailing rationale was that use of the Well Being Power would facilitate appropriate action relatively quickly and effectively. Without the Well Being Power it was difficult to see how any action could be taken quickly enough.

To achieve property acquisitions, intensive negotiations took place directly with owners based on criteria of current market value and considerations of community gain. This meant some properties were purchased over the current market value to achieve the development strategy in the most cost effective manner for the council. There were criteria for the people living in the estate. If they kept their home in good order the local authority would give them full market price plus recompense for disturbance and re-location. Agreements were made with the housing association which agreed to demolish their properties and re-house their tenants. If the property was privately owned and it was abandoned the landlord would be given £3,000 to give over rights to the property to the council.

The initiative was driven by the then head of housing, supported by the local authority lawyer and led politically by the cabinet member for social care and housing.

## 2.2 CASE STUDIES

We have completed the first round of interviews and data collection in five case studies. The majority of this work was undertaken between September 2004 and February 2005. In each case study we interviewed a range of local authority councillors and staff as well as representatives of partner organisations from neighbourhood to regional levels.

As was the case with the demonstration projects, none of the case studies is based on a shire district council. This initial deliberate choice was based on our expectation that we could learn most about the Well Being Power from studies from upper tier authorities. However, subsequent information (albeit largely anecdotal) suggests that some lower tier authorities may have made substantial use of the power and we are therefore proposing that some of the resources available from the 6th case study are allocated to an examination of the use of the power in lower tier authorities.

The 5 case study authorities have not been identified in this report because some of them, when we were negotiated access, wished, at least initially, to remain anonymous. The authorities are thus referred to by letter (A to E) and a brief

outline of each authority and its indicative use of the power is contained in Table 1 below. Our research findings from the case studies are incorporated in the main section of the report – ‘Early Findings’.

<b>Table 1: Overview of case study local authorities and their uptake of the Well Being Power</b>		
<b>Case study</b>	<b>Description of LA</b>	<b>Indicative use of the Well Being Power</b>
A	Case study A is a London borough with an ‘excellent’ CPA rating. The council has a leader and cabinet structure. The LA has a diverse ethnic mix, the largest ethnic group being black African and Bangladeshi.	Using as power of first resort
B	Case study B is a metropolitan LA with a ‘poor’ CPA rating. The council has a leader and cabinet structure. The local economy economy has experienced a series of slumps and booms. Its most recent slump was characterised by unemployment, industrial dereliction and housing decline. However this area has been undergoing recovery in the last 15 years.	Public/private partnerships
C	Case study C is a rural unitary LA with a ‘good’ CPA rating. The council has a cabinet and leader structure. The LA covers a large area but has a relative small mainly white population situated in market towns and rural areas.	Many examples of proposed use
D	Case study D is an urban unitary LA with a ‘fair’ CPA rating. The local economy has experienced a gradual decline in its traditional manufacturing base which has created numerous economic, social and environmental problems. There is a high level of investment in a variety of regeneration schemes.	No reported use
E	The final case study is a county council with an ‘excellent’ CPA rating. Case study E has a leader and cabinet structure. The authority faces a number of development challenges in different parts of its area. It is currently considering a scheme of more extensive decentralisation.	No reported use

### **2.3 ONGOING LITERATURE REVIEW**

We have continued to review a range of literature and references to the Well Being Power. We have widened our search beyond that which we originally envisaged in order to track where references are made to the power in central government publications and statements that emerge from a wide range of policy initiatives where the existence of the Well Being Power may be relevant.

Our review has covered:

- Ministerial statements and speeches
- Central government publications
- Publications by other organisations (e.g. LGA)
- Reported legal cases
- Academic publications

- Information on examples of the use of the power.

To date, the key issue emerging from our review is that there are relatively few references to the power in central government publications and statements. In addition, where reference is made, it tends to be very brief and does not provide further explanation and guidance to potential users. This evidence corroborates the views we received from some of our case study and demonstration project interviewees that central government has not sufficiently promoted the availability of the power or its potential uses.

## CHAPTER 3

# Changes in policy context

The evidence we have collected thus far suggests that there are a number of recent, current and anticipated changes in the national policy context that may have a major impact on the way in which local authorities conceive of their role and relate to their local partners and communities. We anticipate that these changes may have a significant impact on the likelihood of local authorities giving consideration to the use of the Well Being Power.

The two most significant changes are both broad in nature but it is from them that a number of more specific changes are emerging. The first relates to the clear signals given by the Government that it is in the process of making significant changes to its relationship with local authorities. Badged under the broad concept of 'the New Localism', there have been a number of indications that the Government's perception of Local government and of its capacity to help deliver on key government priorities is now the subject of considerable debate – that there is an increasing realisation by central government that its broad objectives of creating thriving communities, responsive services and engaged citizens cannot be achieved through a system of central command and control. We therefore anticipate the continuing emergence of a new policy framework within which local authorities will feel more able to experiment and develop new ways of working – developments that have the potential to lead to use of the Well Being Power.

The second broad change is a much greater emphasis being placed on the community leadership role of local authorities. Some of the respondents in our interviews have expressed the view that central government, despite making the concept of the community leadership role (and providing the Well Being Power to support that role) a central part of the Local government Act 2000, subsequently did little to promote or support local authorities in developing the role. There have been some recent speeches by Ministers (for example, the Rt. Hon. Charles Clarke's speech when Secretary of State for education to the National Social Services Council in Newcastle, 20th October 2004) and recent government publications (for example, ODPM: 'The future of local government: developing a 10 year vision' (2004) – and its subsequent 'daughter' (2005) report) in which there is a clear attempt to articulate and give emphasis to the community leadership role. The way in which local authorities interpret these statements will of course vary significantly but there is reason to believe that many authorities will respond positively if they perceive that central government is willing to enter into a genuine discussion about how the role can be defined and implemented and how such a role can be supported by central government through the array of policy initiatives it has available to it

There is also a change in the local circumstances of local authorities that we anticipate. Our evidence suggests that in many of the local authorities we have had contact with there is a perception that they have, in recent years, been dominated by the process of preparing for and undergoing Comprehensive Performance

Assessment (CPA) and also, that CPA has not encouraged or stimulated a creative and ambitious approach to their community leadership role. We may assume that local authorities will, in the future, be less dominated by the particular requirements of the CPA process and therefore have more opportunity to think and act more widely and ambitiously in relation to their community leadership role. We may also assume that this process will be supported and assisted by the inclusion of the community leadership role in the Audit Commission's CPA framework of assessment. We will need to test out whether these two assumptions are valid in our future research activities.

In summary, we suggest that, while in recent years the community leadership role has received insufficient priority and attention by both central government and by many local authorities, we anticipate that this is now in the process of changing. We also see positive evidence of a change in the relationship between central and local government. There are also changes to the CPA process. These three factors are likely to produce significantly different national and local policy contexts in which there will be more likelihood of local authorities engaging with the broad principle of well being and addressing quality of life issues in substantive ways – thereby creating potential for expanding the use of the Well Being Power.

Some of the elements of the new policy context are already in place, for example LSPs, Community Strategies and the second generation of Local Public Service Agreements. We envisage important developments in these areas. Others, such as Local Area Agreements have recently commenced as pilots but could have a dramatic effect on service delivery and on central-local relations. There is also an 'emergent' policy agenda that is best represented in the Government's 10 year vision for local government and its 'daughter' documents on local leadership, citizen engagement and neighbourhoods, and the development of a new performance framework.

# CHAPTER 4

## Early findings

This section of the report draws principally on research undertaken by the team between September 2004 and February 2005. It explores the ways in which the Well Being Power is utilised in a variety of local settings and examines the range of factors that have contributed to its use/non-use. This section of the report follows the themes and format of the BL Report in order to aid understanding of change over time. Each sub-section is shaped around a number of key questions that link back to the research questions that underpin this evaluation project.

### 4.1 UNDERSTANDING OF THE WELL BEING POWER

The BL Report concluded that the scoping phase had uncovered patchy awareness and understanding of the Well Being Power. It pointed to local authority lawyers having the widest and deepest knowledge of the power although also suggested other officials displayed considerable knowledge about most aspects of the Well Being Power. In this section of the interim report we return to basic questions of understanding and awareness focusing on:

- How widespread is understanding of the Well Being Power?
- Have local authorities tried to increase understanding of the Well Being Power, and to what effect?

#### 4.1.1 How widespread is understanding of the Well Being Power?

##### Understanding in the demonstration projects

In four out of five of the demonstration projects understanding seemed to be restricted to a narrow group of people which generally comprised the corporate centre, senior officials (including chief officers, individual cabinet members and individual councillors) and lawyers. In the fifth demonstration project there appeared to be a more general awareness of the power.

Understanding of the Well Being Power does not appear to be widespread across local authorities. Junior staff members have limited knowledge of the Well Being Power and are not always aware of the legal powers they operate under. As far as partners are concerned some key members of the LSP are aware of the power but understanding amongst other partners is negligible including amongst regional officials.

The extent of individual understanding varies but most have a general understanding of the Well Being Power with few people in each demonstration project having an in depth understanding of the significance of the power. The Well Being Power is understood as a legal mechanism or tool and therefore there tends

to be little discussion about the power outside the legal and corporate arena. In one authority the power was described as “just a legal mechanism – therefore staff don’t know about it.”

There were different perceptions of other people’s understanding of the power within local authorities and perceptions of understanding of the power did not always match the reality. For example frontline staff often assumed that understanding of the power was restricted to senior staff and in contrast certain individual senior staff with little understanding of the power assumed that operational officers would have a good understanding of the powers because they relied on them to deal with legal issues. In some cases senior staff assumed that there was widespread understanding of the power when in reality there was little awareness below the corporate centre; often this assumption was based on past training sessions which were obviously less memorable or clear to frontline staff. In other cases perceptions of some awareness amongst councillors and senior management but not at the frontline or among partners were more accurate (Wakefield and North Tyneside).

There was little consistency between people’s understanding, perceptions and views on the power within local authorities. The level of understanding varied from one individual to the next often throwing up surprising results. For example, in Newham most respondents had heard about the Well Being power, due to their close connection with the LIFT Project, although some respondents that might have been assumed to know about the application of the power in relation to this project, did not. In Torbay the Deputy Leader expressed little knowledge of the power indicating that he did not know that TDA had been set up using the power. The implication here was that it was not significant that he did not know about the use of the Well Being Power; this was within the remit of the relevant officers.

### Understanding in the case studies

The understanding of the Well Being Power in the case studies was not very different to the demonstration projects. Case study respondents reported a generally low level of awareness below the corporate centre and lawyers. Case study B was the exception where it was suggested that awareness was widespread with few respondents claiming to not know much about it, although the leader of the council was one of the few who claimed not to know about the power.

Respondents within the case studies seem to understand the Well Being Power as more than simply a legal mechanism, focusing on well being as a concept that has clear links to achieving quality of life outcomes. For example in case study D where no use had been made of the power many respondents discussed the use of the concept of well being and the importance of an integrated approach in improving quality of life for local people.

In the case studies the view of elected members comes across more clearly. Here it appears that elected members have very little knowledge of the power unless they have specific responsibilities on the council’s executive. This is attributed partly to ‘initiative fatigue’ and partly to elected members perceiving their roles as proposing policy intervention and leaving it to others to deal with the legalities.

The case studies reinforced the view expressed in the demonstration projects that lawyers had the most in depth understanding of the power. Among lawyers there is often little expectation that others should know about the power – an expectation that could form part of the explanation for the relatively low level of understanding we uncovered across local authorities.

In the case studies, few partners of the local authority had much knowledge of the power, with some partners arguing that if the power was sufficiently significant, they would have been made aware of it through Government guidance or through conversation with local authority colleagues.

There are a number of reasons highlighted in the case studies and demonstration projects as to why some individuals or local authorities have a better understanding of the power than others. These include:

- Perception of the power as a legal tool therefore confined to lawyers. Lawyers don't expect others to have an in depth understanding of the power.
- Initiative fatigue: other policy initiatives have taken priority.
- Some local authorities find it difficult to relate to the guidance on the power because it appears to focus primarily on unitary authorities.
- The way information is communicated within the local authority. For example, in case study C there is a hierarchical way of communicating key information. Here each manager in a service area can determine if there is something that needs widespread communication, then it will cascade up to the corporate management team and then down through directorates and heads of service to different teams. At each level managers will have discretion about their level of engagement and how much to pass on.
- How individuals learn about the power: for example if it is through the legal department people are likely to perceive it as a legal instrument but if it is through other sources e.g. seminars, news articles, people are likely to have a more general idea of the concept and the extent of the power.

#### **4.1.2 Have local authorities tried to increase understanding of the Well Being Power, and to what effect?**

There is little evidence of extensive efforts to increase understanding of the Well Being Power either in the demonstration projects or the case studies. In fact only two demonstration projects (Torbay and North Tyneside) and two case studies (A and C) mentioned any kind of awareness raising activity of the Well Being Power. Examples cited include:

- In Torbay the council lawyer gave emphasis to the power in training sessions.
- In North Tyneside recent briefings and a seminar for elected members on the 2000 Act included marginal attention to the power.

- In case study A occasional seminars were organised for officers volunteering an interest. Senior officials recalled being given written legal briefs when the power was introduced and in some instances these were passed through departmental management structures.
- In case study C there were some references to early attempts to inform the senior management team, LSP and key directorates about the Well Being Power post-2000 by policy officials. One of the authority's officers had sat on a national working group so had an interest in promoting the power, and the leader reported that reference was made to the Well Being Power in induction sessions for new staff.

Even in these examples only a few respondents mentioned such events. For example in case study C most respondents 'assumed' that there would have been some level of awareness raising though few could remember any or produced any documentation relating to this.

### **4.1.3 Conclusion**

The case studies and demonstration projects reinforce findings presented in the BL Report that understanding of the power of Well Being is highly variable with lawyers remaining the group with the widest knowledge of the power. The understanding of the power rarely seems to go beyond lawyers, senior officials and the corporate centre. Nevertheless there are individuals at the frontline who have made use of the power but these are the exceptions rather than the norm. A key issue for the evaluation is to what extent more widespread knowledge and awareness of the power is needed, particularly in relation to elected members. What appears to be important here is not close understanding of the power as a legal instrument but more understanding of the concept of well being and how it should inform local stakeholders' view about the role and purpose of the local authority.

## **4.2 TAKE-UP AND IMPLEMENTATION OF THE WELL BEING POWER**

Here we consider the evidence in relation to the following questions:

- What are the patterns of use of the Well Being Power?
- Is the power being used for particular purposes?
- What is the balance of use across economic, social and environmental objectives?
- How does usage of the Well Being Power link to related legislation?
- How does use of the Well Being Power link to the community strategy and LSP?
- What are the rationales for using the Well Being Power?

The BL Report highlighted the wide range of instances in which local authorities had made use of the Well Being Power. These findings are confirmed by the data collected in the case studies and demonstration projects and detailed below. The BL Report also considered whether there were patterns in local authorities' experience of implementation of the Well Being Power, and while we found that no single general conclusion could be drawn about changes in approach since the 2000 Act came into force, it was possible to identify different categories of use. These underpin the following analysis and have in turn been developed as a result of our primary research.

For obvious reasons the case studies provided more fertile ground for examining the range and potential patterns of use of the Well Being Power, as we were able to examine the range of local authority activity. In the demonstration projects our focus was more directly on a key instance of use that might be instructive for others to learn from, though here too we did explore whether and how use of the Well Being Power was communicated throughout the local authority. Nevertheless data from other sources in our study do indicate that there were instances of use in the case studies that were not revealed to us in our visits to the authority. The reasons for this and any implications will be considered as part of our follow up visits to the case studies in 2006.

#### **4.2.1 Patterns of use**

We have considered the take-up and use of the Well Being Power under the following 'use' headings:

##### **Use as a power of first resort**

The demonstration projects contain examples of use of the power in this way. In Torbay, the power was used to help establish the Torbay Development Agency (TDA). Use of the power here stems from the positive view of the council's lawyer towards use of the power as one of 'first resort'. Using the power of Well Being in this way meant that the local authority did not have to mine all the different functions and specify all the different pieces of legislation that it might otherwise have had to do. It is not possible to say (and not useful to speculate in this instance) whether the TDA could have been put together under other legislation, without the research team going through the substantial exercise that the council managed to avoid. However, it is certainly possible to conclude that its use did allow a considerable reduction in the resources that would otherwise have been committed to such an exercise, and has facilitated innovative action from the point of view of this particular authority.

In Greenwich, the council lawyer's perception of the Well Being Power as a power of first resort means that it is turned to first in areas of discretionary activity (economic development initiatives/grants) which are outside the authority's core service responsibilities, although not marginal to the authority's priorities and aspirations for the area and its own role. In relation to the establishment of the Gateway Employment Project, the lawyer was confident sufficient specific powers could have been found. However, the use of Well Being Power meant that attention and resources could be devoted to issues that were more complex and challenging.

There is some, though more limited, evidence from the case studies about the use of the Well Being Power as a power of first resort. Here too, this perspective is based upon the confidence of lead lawyers to act in this way and again, the power comes into play on more marginal discretionary issues with the local authority relying on its main statutory powers for most functions.

The approach taken by lawyers in these circumstances appears to be that an assumption is made that something can be done, and the checks under the Act then take place, coupled with other appropriate considerations (reasonableness, best use of resources and so forth). If there is advantage in using a specific power, that will be used. Considering the Well Being Power in terms of a power of first resort appeared to be confined to lawyers, and this raises important questions about the ways in which a ‘can do’ attitude amongst lawyers can impact on the actions and possibly the culture of the authority and the other factors that might support or inhibit this impact.

### Reassurance

Reassurance, or use as a comfort blanket, is distinguishable from use as a first resort in the instances covered above, which appear to be acts of confidence in using the power, rather than need for reassurance. Reassurance, as we indicated in the BL Report, stems from using the power to remove legal uncertainty. The ‘belt and braces’ approach in the North Tyneside/Newcastle demonstration project would fall into this category, perhaps with one of the partner local authorities’ drawing more substantial reassurance from counsel’s opinion on reference to the power than the other. The process in the Newham demonstration project illustrates well the basic comfort blanket approach: here an exploration of the limitations on the holding of shares in a new company led to the Well Being Power being used to resolve uncertainty. The capacity to act across boundaries using the Well Being Power may be an innovative use, but use of Well Being Power could also have acted as a reassurance too.

The ‘reassurance’ approach was also evident amongst our case study authorities, in one case lying behind most uses of the power. Here, the chief executive has felt confident to approve actions on 4 or 5 occasions believing that the Well Being Power would back up his judgement and that the power also provided comfort in the business case for a capital project. In another case study the reassurance approach was also evident, although here its impact was felt beyond the authority, creating confidence among external partners on the local authorities’ capacity to act in relation to a major regeneration scheme.

### Filling in the gaps of other legislation

The Well Being Power has been cited as providing an important enabler to joint activities under the Health Act 1999, enhancing the flexibilities contained in that Act.

### No use

In some circumstances local authorities continue to prefer to rely on specific powers rather than make use of the Well Being Power. In one of our case studies the level of caution amongst officials in the authority meant that the Well Being Power was

not even considered as a potential instrument. This kind of non-use was not foreseen in our BL Report, where preliminary work had found that those not using the power had considered it but had decided against use for a number of reasons.

#### **Using, but not explained in language of legal powers**

In one case study the Well Being Power was identified as a key enabling instrument in relation to the delivery of cultural services. However, it was not possible to identify specific uses of the Well Being Power, as the officials did not talk in terms of using the power but of achieving Quality of Life outcomes. This obviously leads to ‘unrecorded uses’ (see below) but is also suggestive of a confidence amongst officials in their power to act without regularly checking on the legal authority.

#### **Unrecorded uses**

These were disclosed in one case study but not acknowledged elsewhere. In one case study the support for a particular activity was decided under the Well Being Power, but not recorded as such by the lawyers who put it into effect: they apparently were confident that this was something the council would normally do without difficulty and as such did not require specific legal justification. We will return to the issue of unrecorded uses in our follow up visits to case studies as there is evidence that it may be more prevalent than we have hitherto recorded, in part because of officials’ frequent uncertainty about their basis for action, particularly in relation to regeneration and sustainability activities.

### **4.2.2 Purposes associated with using the power**

The research examined the identified purposes for using the power and found that there is some emphasis on the Well Being Power as a means of promoting new ways of doing things. Our evidence suggests that this can be examined from three perspectives:

#### **New approaches to existing services and activities**

None of the activities using the Well Being Power appear to fall naturally into this category, where we had in mind the enhancement of existing service provision. Case studies and demonstration projects found instances of use of the power to instigate discretionary activity rather than use in statutory service areas.

#### **Facilitating partnership working**

Use of the Well Being Power in this context tends to be perceived by local authorities as both presenting a solution to an immediate problem and facilitating further activity in the future. For example in the Newham demonstration project the use of the Well Being Power is apparently a minor element – filling a gap in the Health Act 1999 which does not provide for company arrangements. However the Well Being Power did permit the purchase of shares in the new company. Newham perceived its role in the company, although as a minority partner, as enabling the council to influence the future of the project, its overall aim being to take a lead on health and the relocation of care services in the borough. In Torbay the establishment of the TDA facilitated successful engagement with the private sector

which, it is envisaged, will be sustained over the longer term. Similarly in one of the case studies the Well Being Power is being used to support the development of long term further and higher education provision in partnership with the LSC.

### **Innovative activities**

We can usefully distinguish between activities facilitated by the power that would not have been possible prior to the introduction of the Well Being Power, and activities that are innovative for an individual authority, even if they would have been legally possible previously. There is one instance of reported use of the power where there may be some doubt as to how it has been applied, but would otherwise be innovative (for example, the apparent manipulation of data protection requirements in one authority). The TDA is an innovative use for the authority, whether or not it could have been achieved using specific powers. The apparently innovative use that we found is in Wakefield, where the Well Being Power was used to enable the council to act outside the more restricted Compulsory Purchase process: the legal basis of this initiative has been overtaken by a subsequent change in legislation which would allow the activity without reliance on the Well Being Power. In another case study area the power has primarily been used to initiate litigation, (which suggests that the power has added a dimension to the pre-existing capacity to undertake litigation), although it has also been used to contribute funds to festivals taking place outside the borough.

### **4.2.3 Fulfilling economic, social and environmental objectives**

Given the link between the Well Being Power and quality of life objectives the research also explored the extent to which the Well Being Power had been used to achieve economic, social and environmental goals.

Not all projects differentiate between the three objectives of the Well Being Power but distinctions are made, particularly on economic development or environmental uses. Social uses, where mentioned, appear as additional dimensions to the other two objects in the examples we have examined. Economic development represents an area of use of the Well Being Power about which there is considerable data. In some cases officials report frustrations with the powers, not least when they conflict with and have to give way to EU state aid rules. Environmental uses have also been various including the North Tyneside/Newcastle street-lighting project, in one case study authorities' legal action against a contractor and in relation to the provision of grants for specific activities.

### **4.2.4 Use and related legislation**

#### **Charging and trading**

Although use of the Well Being Power in relation to charging and trading is not referred to as taking place on any scale at present, the Greenwich demonstration project, Gateway Employment, is expected to provide services to the private sector in the future. It is possible that more examples will emerge over time as the potential of charging and trading was referred to in a number of case study areas.

Reference was also made to borrowing and loans in relation to the business cases prepared for undertaking major projects, although this was only directly relevant to the exercise of the power in Greenwich. The recent increase in flexibility on local authority borrowing did not appear in the instances we examined, which predated the 2003 Act.

#### **Limitations and the application of s3(1)**

We found very different approaches to considering the possibility of prohibitions, restrictions and limitations in other legislation: at Newham there was very rigorous work on the implications of share holding; at Wakefield, Greenwich, and Torbay the approach was informed by a greater confidence in the possibilities for action. No specific instances of conflict with other legislation emerged, although in one case study a possible recommendation for use of the Well Being Power to introduce flood measures (which would have been included in a scrutiny report) was not possible because of a conflict with the private rights of property owners.

#### **4.2.5 Link to the Community Strategy and LSP**

As we have already indicated, awareness of the Well Being Power was limited amongst local authority partners, consequently making relatively little impact to date on the workings of the LSP. The situation was rather different in relation to the Community Strategy. Within the case studies and the demonstration projects corporate respondents were more likely than others to make a link between the Community Strategy and the Well Being Power, although usually without reference to a specific instance of use. By contrast those in service departments who were more directly involved in using the Well Being Power were unlikely to relate the use of the power to the contents of the Community Strategy. This is not to suggest that respondents were acting outside of the priorities of the Community Strategy, as for the most part the strategies themselves were sufficiently broad to accommodate all instance of use. However, these findings do raise the question of whether there is a sufficiently strong understanding of how the Well Being Power and the Community Strategy could interact and the extent to which the Well Being Power is being considered as a means of helping to deliver the Community Strategy.

#### **4.2.6 Rationale(s) for use and non-use of the Well Being Power**

As described in our BL Report, local authorities gave various reasons for the use and non-use of the power. This variety is also evident from the information gathered in the case studies and the demonstration projects.

The following is an attempt to categorise the various rationales/justifications that were given by local authorities for their use of the power in the case studies and the demonstration projects. These are not mutually exclusive categories, but are overlapping. Indeed, in any particular authority there is usually more than one element present. That should not be surprising as the different actors within the authority bring their own perspective. Thus, for example, one may expect a narrower focus from the authority's lawyer, who may be concerned more with technicalities, than from politicians who approach with a broader brush and leave the technicalities to others.

## Use of the Well Being Power

The use of the power can be divided into two broad categories: **‘specific instrumental use’** and **‘symbolic or expressive use’**. **Specific instrumental use** refers to the use of the power to achieve a specific purpose or project. It is broadly reflective of the different kinds of ‘use’ identified earlier in this section, though it draws out more clearly the specific rationales that underpinned action of which we have identified three:

- **Reassurance as to legality**

This rationale arises where the necessary legal power may well exist under other statutory powers, usually incidental powers, but there is some uncertainty which is resolved by the use of the new power. The willingness of an authority to use the new power will partly depend on the confidence of the lawyers as to the interpretation, and also the respective degree of uncertainty, of both the existing statutory powers and the new power. Thus, where the uncertainty attached to the new and unfamiliar power is greater, then the existing statutory power will be resorted to despite any uncertainty. However, where the greater uncertainty is perceived to attach to the existing powers, then the new power will be used.

- **Necessary since previously impossible**

This rationale arises in those situations where there was not simply uncertainty over whether the proposed action would be lawful, but where it is clear that it would not have been lawful because there was no power at all. It thus goes beyond mere uncertainty over interpretation to filling clear gaps in legislative framework or engaging in completely new areas of activity.

- **Use as first resort**

This rationale was found in a small number of authorities where the new power has been embraced as a power of first resort, as exhorted by the Guidance. Thus it may be used where there is no uncertainty that other powers would be available. However, it can also be used where there is uncertainty or absence of power. Where this is done, it makes it more difficult, if not impossible, to split the exercise of the ‘first resort’ power between these three. However, this is of little consequence to the authority since it has transformed the way of thinking.

**Symbolic or expressive use** concerns use of the new power primarily for less specific purposes connected with wider initiatives. While the use will be attached to a specific action, the rationale for the use of the power is not primarily narrowly instrumental but part of a wider agenda. Generally these uses are much less prevalent than the specific instrumental uses. Three overlapping rationales for use in this way have been identified:

- **Community leadership**

The aim here is to give expression to and further the community leadership function. The specific use is secondary to the support it gives to this initiative and there is a discernible change in practice and approach within the local authority as a result of the power. This is considered in greater detail in the later section on community leadership.

- **Symbolic use**

Here the power is used, often where other powers exist, in order to achieve a visible sign that the Council is responding to wider pressures, such as the LGMA, by engaging in activities such as partnership working or new approaches to the areas' economic and other problems. Again there is a broad instrumental dimension in the sense that by being seen to use the new power the perception, both within and of the Council, changes. It is, however, irrelevant what is done. What is important is that perceptions change.

- **Badging**

The third sub-category differs from the other two in that it is not intended to produce a change in practice. It produces a change in external perception only, by doing what would have been done anyway but by borrowing the forms and language of the new power. It gives the impression of a different approach and a response to the modernisation agenda. There is little evidence of that approach in our authorities, although it could be a by-product of the other two sub-categories.

### Non-use of the Well Being Power

In general few 'rationales' for non-use were given in the BL Report because the main reason was the lack of awareness – and therefore there would be no conscious decision not to use the power.

In relation to the authorities in the case studies and demonstration projects, this remains as important element in that awareness of the power has not filtered through to all policy sections and actors. However, it is also possible to utilise the above categories of rationales of use to highlight the absence of these factors or considerations in decision-making.

In addition, other factors which can be considered are those which appear and are reflected in the suggestions for how use of the new power can be promoted (see later section). By implication, it is the absence of these factors which has inhibited to some extent the use so far.

### 4.2.7 Conclusion

Overall, the material collected in the first round of demonstration projects and case studies confirms the findings of our BL Report, but reveals a better understanding of what is meant by use as a power of first resort. Teasing out the application of the Well Being Power in any particular instance can mean that its use has had less significance than reported by an authority or other source of information. However, technical uses can be significant, in making cross boundary or partnership work possible in a way that satisfies the authority that it is acting lawfully, and giving effect to its objectives.

Rationales for use of the power may be very specific and related to particular actions and outcomes or more generally related to the promotion of a new approach and role, or more negatively, the appearance of action without any substance. These issues are considered further in later sections of the report; the section on context and mechanisms considers the ways in which these rationales inform each; the section on community leadership focuses in more detail on the

different dimensions of the interaction between the power and this role; and the section on factors affecting take-up of the power examines how rationales for non-use of the power may be overcome.

### 4.3 CONTEXTS, MECHANISMS AND RATIONALES FOR USE OF THE WELL BEING POWER

The Theory of Change (ToC) approach that underpins this evaluation supports the development of a macro level theory about the use and application of the Well Being Power. By combining this approach with that of ‘realistic evaluation’, the analysis is directed towards the specific ‘mechanisms’ that might be activated by the prospect of use of the power and the ‘contexts’ in which these mechanisms might apply. This section therefore focuses on the following questions:

- What kinds of contexts give rise to the power?
- What kinds of mechanisms are in play in these contexts?

As the evaluation environment is in one in which relatively little is known about ‘what works in what circumstances’ in relation to the take-up and use of Well Being Power, a core task for the evaluation was to draw on existing data to theorise what seemed to be likely ‘change mechanisms’ and to use the empirical study (the formative evaluation) to explore the presence or otherwise of these configurations, to examine the nature of their interaction and their consequences, both in terms of outcomes but also in terms of facilitating greater awareness of the use of the power of Well Being.

In the evaluation framework report (ODPM, 2005) we outlined potential mechanisms and contexts that had been informed by the data collected in the scoping phase of the study. These are now considered in relation to the material collected in the first phase of our fieldwork. Our original intention was to test out these contexts and mechanisms in the demonstration projects and then refine before using in the case studies. In the event this was not possible as the two processes overlapped.

#### 4.3.1 Contexts and mechanisms in the demonstration projects

Table 2 summarises the contexts and mechanisms that appeared to be in operation in each of the demonstration projects.

The most common contexts in which demonstration projects were located were:

- **The ‘cross-cutting’ context:** a locality where public organisations have developed or are developing external orientations enabling them to better understand and work towards addressing ‘wicked’ or cross-cutting issues, such as regeneration or environmental sustainability
- **The ‘crisis-pending’ context:** a locality where established ways of doing things are proving to be insufficient to meet particular contemporary challenges

- **The ‘network’ context:** a locality where public, private, voluntary and community sectors are actively engaged in governance and where there is considerable partnership activity and diversity of service delivery arrangements. We recorded only one incidence of this context in the demonstration projects.

All of our demonstration projects were located in ‘cross-cutting’ contexts. Most often this was associated with the delivery of regeneration, although there were important differences between the projects. For example, North Tyneside/Newcastle deals with a core service (street lighting) as part of a regeneration scheme; Wakefield deals with a core service (housing) but takes on the responsibilities of others in stimulating regeneration; in Torbay and Greenwich the focus is more clearly on economic development purposes. In Newham the LIFT projects deals with a rather different cross-cutting concern: health.

The demonstration projects also revealed a coincidence of ‘crisis-pending’ and ‘cross-cutting’ contexts within very different local authorities (Wakefield and Torbay). What was also notable here was the fact that the notion of ‘crisis’ was applicable both to the circumstances that led to the demonstration project initiative but also to the position of the local authority as a whole, as illustrated through CPA scores and subsequent interventions. However, despite this there was little evidence that the contexts within which the demonstration projects were operating were dominant beyond the project. For example, in the case of Newham it was suggested that an examination of the wider workings of the local authority might reveal a ‘radical change’ context (a locality experiencing a significant change in its governance arrangements, either within the local authority e.g. the introduction of a Mayoral form of leadership, or via external developments, e.g. the introduction of an Urban Regeneration Company). This is consistent with a ‘realistic evaluation’ approach in which multiple contexts may exist within one organisation/locality.

Table 2: Contexts and mechanisms in demonstration projects		
Case	Context	Mechanism
Newham (LIFT)	Cross-cutting	Reassurance (power) Creative individuals (project)
North Tyneside (PFI lighting)	Cross-cutting	Creative individuals Community leadership Reassurance
Wakefield (housing)	Crisis-pending Cross-cutting	Creative individuals Community leadership
Torbay (economic regeneration, PPP)	Crisis-pending Cross-cutting	Community leadership Creative individuals Performance plus to a lesser extent Eager leader New ways of working
Greenwich (jobs, not-for-profit company)	Cross-cutting Network	Eager leader Community Leadership Reassurance

A number of mechanisms were identified across the demonstration projects namely:

- **The ‘creative individual’ mechanism:** the Well Being Power provides an opportunity for individuals to promote new approaches and/or implement ‘pet projects’ by broadening the scope of local government action and enabling them to ‘think the unthinkable’.
- **The ‘community leadership’ mechanism:** the Well Being Power enables local authorities to take up their community leadership role by giving them additional leverage in terms of capacity to act on behalf of the wider community, so increasing their legitimacy with stakeholders and the public.
- **The ‘reassurance’ mechanism:** the Well Being Power gives comfort to elected members/officials that the actions they have taken/wish to take are within their powers by allowing them to cite them as being ‘in the interests of economic, social or environmental well being’.
- **The ‘eager leader’ mechanism** (political/official/citizen): the Well Being Power opens up a new route to individuals who are seeking to ‘make their mark’ by offering a rebuff to potential resistance to change.

In one case reference was made to the following mechanisms:

- **The ‘new ways of working’ mechanism:** the Well Being Power offers elected members/officials the facility to undertake existing activity in new ways by taking advantage of the increased freedom to develop partnerships, procure services and trade and charge for services.

- **The ‘performance’ mechanism:** the Well Being Power is interpreted by elected members/officials as an additional instrument for use in improving performance in external assessment exercises such as CPA.

Across the demonstration projects the ‘community leadership’ mechanism features strongly. This is unsurprising perhaps, given the focus on ‘cross-cutting’ contexts. There is also evidence of ‘community leadership’ mechanisms combining regularly with ‘creative individual’ mechanisms. In some cases this is replaced by/augmented by the ‘eager leader’ mechanism, particularly where the local authority is responding to a crisis or investing in high profile project. The exception to this seems to be in Wakefield where political leadership was located with a key cabinet member but the initiative was primarily driven by key officials, confident that they were acting in support of the local authority’s community leadership role.

The ‘reassurance’ mechanism is a consistent presence amongst demonstration projects, usually reflecting a ‘belt and braces’ approach to use of the power of Well Being. This accords with the evidence presented in the previous section on take-up and usage of the power.

#### **4.3.2 Contexts and mechanisms in the case studies**

As we have indicated above, any given local authority is likely to be made up of a range of different contexts and mechanisms and we have explored these in relation to specific instances of use in the demonstration projects. However we are also interested in exploring whether it is possible to articulate overarching contexts and mechanisms that describe the dominant characteristics of the local authority as a whole and provide some indication of the environment within which use the Well Being Power would be considered. The case studies were the focus for this work and interviews were undertaken with a wide range of respondents from within the local authority and without to try and capture these overarching contexts and mechanisms.

Table 3 summarises the contexts and mechanisms that appeared to be in operation in each of the case studies.

Table 3: Contexts and mechanisms in case studies				
Case	Context	Contra-Context	Mechanisms	Contra-Mechanisms
A	Best Value + steady as she goes		Community leadership Reassurance plus to a lesser extent Innovative Creative individual	
B	Cross-cutting + network		Creative individual Community leadership Reassurance	
C	Network + crisis-pending		Community leadership Reassurance New ways of working	
D	Radical change + network	Unfinished business	Eager leader Community leadership	Gatekeepers
E	Steady as she goes	Not made here	Creative individuals	Badging Frustrated believers

There was a much wider variety of contexts within the case studies compared to the demonstration projects. The ‘network’ context appeared most often, in combination with a number of other contexts. ‘Cross-cutting’ and ‘crisis-pending’ contexts were also present as was the ‘radical change’ context, though the ‘steady as she goes’ context appeared more often, alone and in combination with the ‘best value’ context:

- **The ‘steady as she goes’ context:** a locality where the local authority has a reputation for acting responsibly but being risk averse, with an emphasis on doing what it knows well but resisting the temptation to respond to every passing government initiative and/or resisting responding to pressures for local innovation.
- **The ‘best value’ context:** a locality where the local authority has a reputation for efficient organisation and management, which operates a vigorous approach to best value in terms of service delivery and which regularly performs well in external inspections.

There was rather more similarity between the case studies and the demonstration projects in terms of the prevailing mechanisms. Both ‘reassurance’ and ‘community leadership’ mechanisms appeared to operate in a number of different contexts and ‘creative individuals’ continued to be important stimulants to action.

Also suggested by one of the case studies is the way in which a ‘crisis-pending’ context can result in positive action when coupled with a ‘network’ context that opens up other options to the local authority to act. This indicates that the Well Being Power is not just for local authorities with lots of resources at their disposal.

One inference that could be drawn from the range of contexts and mechanisms present in the case studies is that the Well Being Power is not just linked to ‘discretionary’ or ‘extra’ activity but does resonate with mainstream activity. However, as indicated in the previous section, evidence of actual use of the Well Being Power remains limited, and is most obviously identified in areas of discretionary activity. Our analysis is suggestive of the potential for the use of the Well Being Power, but needs to be informed by other factors that support/hinder its application in practice. To this end we have been able to identify the existence of ‘contra-indicators’ in both contexts and mechanisms giving rise to circumstances where no action is possible or the Well Being Power is kept off the agenda. In case study E the uncertainty of a local authority in transition, combined with a risk averse culture and a narrow focus on service delivery created a context where latent mechanisms (creative individuals) are rendered inactive. It also offers a reverse mechanism to that of ‘reassurance’ by cynically interpreting the Well Being Power as a ‘badge’ that can be applied to things happening anyway. In case study D there are powerful contra-indicators across both contexts and mechanisms, political uncertainty creating a context of ‘unfinished business’, coupled with a powerful ‘gatekeeper’ mechanism, whereby lawyers effectively keep use of the Well Being Power off the agenda. This contrasts starkly with case study A where the lawyers are seen to be ‘creative individuals’ actively supporting a positive environment within which to use the Well Being Power.

### **4.3.3 Conclusion**

Evidence from the demonstration projects and case studies has revealed a variety of contexts and mechanisms within local authority areas. Within this variation it is possible to discern contexts and mechanisms that are in play more often than others and which combine consistently. It has also been possible to identify a number of ‘contra-indicators’ in both contexts and mechanisms, which generate conditions in which no action is possible or the Well Being Power is kept off the agenda. Further attention will be paid to the power and incidence of these ‘contra-indicators’ in the next phase of the evaluation.

## **4.4 LOCAL APPROACHES TO APPLYING THE WELL BEING POWER**

This section considers the following questions:

- How are local authorities organised to facilitate use of the Well Being Power?
- How are decisions made in relation to the use of the Well Being Power?
- Who are the key players in prompting use of the Well Being Power (internally and externally)?
- What resources are needed?
- How is experience of trying to make use of the Well Being Power shared within local authorities and with partners/stakeholders?

#### 4.4.1 Local authority organisation

For the purposes of this section organisational arrangements have been interpreted as the culture and processes of the authority along with the roles played by key officials.

The experience of the demonstration projects and case studies suggests that local authorities with organisational structures that can easily support a focus on cross-cutting issues combined with a culture that encourages innovation are likely to be in a strong position to make use of the Well Being Power. This is illustrated by the experiences of the demonstration projects. For example in Greenwich the political and managerial structures are designed to support a focus on cross-cutting issues with directors and members having cross-cutting briefs and portfolios. The emphasis on enabling innovation was cited as an important element in the local authorities' culture, manifest in the decision to develop a not for profit employment company. Similarly North Tyneside has considerable experience in addressing cross-cutting issues by working across local authority and other boundaries – for example, operating at regional level. It was also described as having a history of attempting radical experiments, with new initiatives being generally supported.

Torbay is an example of an authority that made significant organisational and cultural changes in a relatively short space of time. Here a change in political administration and officer leadership resulted in an emphasis on developing the local authority's community leadership role. This combined with structural changes within the council organisation to generate a clearer strategic focus to deliver the community plan and respond to legislative changes.

In some cases it is possible for the Well Being Power to be used in an environment that is not considered to be organised appropriately. Wakefield is a good example of this. At the time of the demonstration project the local authority was not considered able to respond easily to cross-cutting issues, nor was it known as an innovative authority. However, the creativity and drive of individuals in key senior positions was able to overcome the limitations of the existing infrastructure in order to make use of the power.

The importance of the combination of organisational arrangements and culture is highlighted by consideration of the experiences of the case studies. In case study E the organisational infrastructure was clearly based around services and the culture focused attention on delivering strong service performance within financial constraints. The reaction to the Well Being Power was informed by these circumstances with officials decrying its utility in the absence of additional resources. In case study C a service department mentality had been challenged through the development of themed directorates and a corporate centre, partly in response to performance in CPA. However, as a relatively new authority (created in the last reorganisation) service based cultures remain quite distinctive. Consequently in parts of the authority it is possible to discern an active interest in and engagement with the potential of the Well Being Power, for example in relation to cultural services, where the power provides underpinning and justification for largely discretionary services, that are delivered by individuals recruited for their capacity to be creative and find new ways of doing things. By contrast there are other service areas with entirely different cultures, where the Well Being Power has

little or no resonance. The corporate centre is active in its support of cross-cutting endeavours and has facilitated a strong and well developed LSP and made use of the Well Being Power in pursuit of corporate objectives. However, its success in engaging with different parts of the local authority remains informed by their still dominant service cultures.

The impact of individuals is also interesting in the context of different case studies. In case study A the head of law was credited with creating an environment within the legal department in which the use of the Well Being Power was embedded. This complemented the wider move within the local authority towards a greater focus on cross-cutting issues, drawing on its reputation for innovation in services. By contrast in case study D a dramatic re-organisation in political decision-making structures had not stimulated change, in part because of the dominant risk averse culture, generated in part, by memories of ‘failed’ ambitious projects.

#### **4.4.2 Processes and decision-making**

The actual or potential uses of the Well Being Power rarely seem to be discussed openly in authorities, but are restricted to specific groups of people involved in a particular issue. This appears to relate to the fact that use of the Well Being Power is not usually the starting point in any discussion but emerges as a way of facilitating a solution that has already been proposed. For example in Torbay establishing the Development Agency was seen as providing a solution to several pressing problems. However, the stimulus for creating the TDA was not the Well Being Power itself but the area’s economic problems and the limited success the council had had in addressing them. Similarly in North Tyneside the Well Being Power came into play when key officials from North Tyneside and Newcastle local authorities sought legal advice on the terms in which they wanted to enter a partnership. The powers were not discussed initially but were later suggested by lawyers when constructing the foundation of the joint agreement. In both cases the point at which the power becomes part of the decision-making process tends to be at a late stage, often simply applied as a legal instrument to aid delivery of an otherwise problematic initiative.

The process of using the power appears to be initiated in meetings between project officers (regeneration officers, environment team, housing officer or whoever proposes the action) and lawyers. In some cases officers are not aware of the legal powers being used to enable an action to take place; the details are known and held by relevant lawyers.

The involvement of elected members in debates and discussions about the use of the Well Being Power varies across the demonstration projects and case studies. Rarely are members involved in decisions about whether or not to use the power and there were no instances of elected members identifying the Well Being Power as an instrument appropriate to solving a particular problem. In most cases they are directly involved in debates about the proposed intervention that the power will support and rely on officials to determine the most appropriate legal basis for action. In demonstration projects there was evidence of both formal and informal points of engagement in relation to specific instances of use. For example in Wakefield, Greenwich and Newham the decision-making process could be traced through the Cabinet papers. In Wakefield there had been prior deliberations about

the proposed housing initiative (and the legal basis for it) within the ruling party group.

The case studies reveal similar formal processes for recording uses of the Well Being Power. For example in case study B there is a reporting process that runs through officer structure then to cabinet and council. The reports have a checklist at the end which includes a requirement to specify which legal powers are being used in relation to the action required. Likewise case study C includes reference to the legal justification for action where necessary in cabinet papers but this is rarely the subject of discussion (nor is it expected to be). In some cases knowledge of the power bypasses elected members and other council officials and is restricted to the legal department. For example in case study E lawyers would present elected members with an opinion if asked but wider debate about the basis for the opinion would not be anticipated.

#### **4.4.3 The key players**

It is clear from both the demonstration projects and the case studies that council lawyers play a vital part in the process and therefore their attitude towards the power is a key determinant in its use. As such local authority lawyers can be powerful ‘gatekeepers’ and even in circumstances where key lawyers are positive about the potential of the Well Being Power, they may still act to limit its usage through their actions; this can be seen by contrasting the head of law’s active encouragement of an atmosphere of awareness and usage in case study A with the approach in case study C where the head of law saw it as a legal responsibility to solve problems via the Well Being Power without anyone else needing to be aware of it.

As already indicated legal expertise from outside the local authority is drawn upon to either to aid the initiation of the power or to support its application. For example, in Newham external legal advisors played a key role in initiating the use of the Well Being Power which was followed through by council lawyers. The 3 legal teams from the local authorities involved had little experience of this type of project and therefore used the external advisors to clarify the public sector involvement of the LIFT initiative and to manage the specification. In case study B the Well Being Power was initiated not only by the council’s lawyers but also by external legal counsel and lawyers acting on behalf of partners in the scheme.

#### **4.4.4 Resources**

Difficulty in resourcing use of the Well Being Power is referred to on several occasions as placing limits on actions. For example, the Wakefield housing scheme would have covered more properties at an earlier stage if resources had been available. Otherwise, use has taken up resources within an authority that have not been quantified, or lack of resources or ability to raise money has acted as a brake on considering use of the Well Being Power.

#### **4.4.5 Sharing experiences**

There was little sense from the demonstration projects or case studies that local authorities were engaged in sharing experiences of using the power systematically through their organisations or with partners. There was a profound difference

between those authorities that were reinventing themselves and using the Well Being Power both as a legal instrument and as a way of reorienting their focus to support their reinvention, in Torbay for example, and those other authorities (e.g. Wakefield) that saw the power as having a particular use in certain circumstances, but which may not be widely applicable.

#### **4.4.6 Conclusion**

The experience of the demonstration projects and case studies suggests that local authorities with organisational structures that can easily support a focus on cross-cutting issues combined with a culture that encourages innovation are likely to be in a strong position to make use of the Well Being Power. However, use of the power can be found in their absence, where the creativity and drive of key individuals is sufficient to overcome institutional obstacles. It is unusual for use of the Well Being Power to either be the starting point for discussions about action, rather it is introduced later (by lawyers) as a way of overcoming a specific problem and its use recorded in a way that fits with the local authorities existing protocols. Lawyers remain key enablers/constrainers of use of the Well Being Power and are likely to remain so for as long as knowledge and discussion of the power remains confined to these expert advisers and little attempt is made to publicise practice amongst staff and with other organisations.

#### **4.5 FACTORS AFFECTING THE TAKE-UP AND IMPLEMENTATION OF THE WELL BEING POWER**

In the BL Report we identified a range of factors that local and central actors identified as promoting or inhibiting the take up and use of the Well Being Power. We continued to explore these in the first phase of primary research but focused our attention on whether and how particular challenges could be addressed. This section focuses on the following questions:

- Are there any specific changes required in local authorities to make best use of the Well Being Power?
- What if any actions could central government take to help stimulate use of the Well Being Power?
- Are there any risks associated with the policy, what might go wrong?

In our BL Report we recorded that the relatively low profile of the Well Being Power was partly related to the low significance attached to it by central government in its interactions with local authorities. The CPA and performance management and other aspects of the ‘modernisation’ agenda were far more salient issues than the Well Being Power. A core message was that central government itself was confused about the importance or salience of the power, and therefore was unable to give clear messages about its relevance and use.

In researching the use of the Well Being Power in greater depth through the case studies and demonstration projects, the recorded perceptions from local authorities extend that view to incorporate other factors – thereby providing a more nuanced

picture. Tables 4 and 5 (below) summarise the views from the local authorities for each demonstration project and then for each case study area. The heading 'local government changes' brings together local perceptions of correlates of the use of the Well Being Power, rather than presenting a list of changes. This is due to the near universal view that there are no (structural) changes required at the local level, and therefore no further substantive responses were offered in this regard. The heading 'Central Government Changes' identifies particular actions that local actors believed should be taken at the central level to stimulate the use of the Well Being Power, or some action that reflects a change in central-local relations.

#### **4.5.1 Changes to facilitate take up and use of the Well Being Power in the demonstration projects**

Table 4 summarises the responses from the demonstration projects about the nature of change needed within local and central government to support the take up and use of the Well Being Power. A key message was the resistance to any further structural change in local government. Change of this nature was perceived to 'hold up' rather than facilitate use of the Well Being Power, because it distracted local authorities' attention. There was one notable exception to this view, which was expressed by Torbay. Here locally initiated reorganisation of the authority was considered to bode well for both the future use of the Well Being Power and for innovative activity in general because the reorganisation was stimulated by a desire for the authority to operate as a community leader.

Respondents also identified the use of the power as an innovative activity in itself, one which was linked to the culture and the existing capacity for partnership working within the authority. Reference was also made to the importance of high levels of awareness of the Well Being Power and information sharing within the council about the potential and actual uses of the power as additional factors that would stimulate greater use. This conflicts with the experience of the demonstration projects and case studies to date, as recorded earlier in this report.

Respondents also made references to local authorities' developing their capacity for risk-taking in order to make best use of the power. This seems to imply that the Well Being Power was to be utilised for risky and new activities, not for existing and mainstream activities, something which is largely borne out by the activities undertaken by the demonstration projects themselves.

<b>Table 4: Changes to facilitate take up and use of the Well Being Power in the demonstration projects</b>		
<b>Demonstration Area</b>	<b>Local Government Changes</b>	<b>Central Government Changes</b>
Greenwich	No more structural change; Culture: innovation, information sharing, connecting powers with community strategy; Institutional capacity: risk averseness vs. innovation; and Partnership Working.	Stop over prescription of process; Financial assistance for innovation; Protection from risk and recognition of Local government's risk-taking; and Simplification of procurement methodology (to avoid distraction/ encourage focus on broad goals rather than narrow cost-orientation).
North Tyneside	Attitude of Local government; Awareness; and Recovery status of authority.	Resources to underwrite risk; central government should be more joined-up Proper recognition for local government innovation; and Joined-up funding for innovation.
Newham	Culture of innovativeness; Partnership working; Community planning; and Development of expertise through experience.	Financial support for innovation; Adequate financing for appropriate local level of need; Reference to Well Being Power in their own procedures; and More explicit about the definition of Well Being as concept.
Torbay	Culture of Change; Partnership working; Local government structure not sound (suggested by continuing re-organisation and forthcoming review of service delivery methods).	Reduce attempts to control local authorities; and Make resources available that are not ring-fenced.
Wakefield	Culture of focus on quality of life-related outcomes, and changes that reflect this culture; Development of focus on neighbourhood action and cross-cutting local teams; and Existing structure is right.	Resources for innovation; and Acknowledge role of local government as community leader and its capacity for serving local public interest.

There were some clear messages for central government emerging from the experiences of the demonstration projects. Central government was encouraged to stimulate the use of the Well Being Power through the provision of resources to underwrite risk and innovation. In addition, respondents were keen that Central government continued to devolve powers and duties to local government in the spirit of recognising local government as the 'community leader. Notwithstanding the focus on discretionary and additional interventions by the demonstration projects, respondents were keen that central government helped enable a greater consideration of the use of the power in mainstream service delivery. It could achieve this in two ways: by integrating the Well Being objectives with the new procurement regime and by providing a clear elaboration of the concept of well being as it relates to practical aspects of local delivery objectives. At the same time

however, some respondents also stated that they wished that central government would simply stop getting involved in delivery and ‘over-prescribing’ local processes.

#### **4.5.2 Changes to facilitate take up and use of the Well Being Power in the case studies**

There were a number of similarities in the responses given by the case studies to those provided by the demonstration projects. For example greater internal awareness of the power, combined with a culture of innovation and partnership working all correlated with higher potential use of the power. There was also reference to improving the capacity for risk taking, with particular reference to the need to support lawyers in this regard. However, there were some important differences. The most obvious one pertained to the attention given to leadership in the case studies, both in terms of the community leadership role of the authority and the impact of effective individual leaders or champions in relation to the Well Being Power. Case study respondents concurred with the need to bring the Well Being Power into the mainstream and suggested linking the power to business planning processes and Best Value Review processes as ways of mainstreaming the power in practice.

**Table 5: Changes to facilitate take up and use of the Well Being Power in the case studies**

Case Studies	Local Government Changes	Central Government Changes
A	Set aside resources for use of Well Being Powers; Raise awareness; and Management of risk.	More trust from central government; More devolution; and Mention in CPA.
B	Focus on community leadership role; Partnership working; Identifying schemes and projects that had elements of improving the 3 aspects of well being.	More local freedom for prioritisation; Develop/extend policy instruments such as LPSAs and LAAs to encourage creativity; and To amend other legislation to facilitate the use of the Well Being Power, such as Best Value Legislation, European laws and procurement.
C	Training for legal advisors to make full use of the Well Being Powers (authority considers itself to have a good existing training culture that would support this move).	More resources are needed since council tax capacity has been capped; Central government and the LGA could give Well Being Powers a higher profile through referring to them in a more routine context, for example, through use in a wider range of government papers and journals. The perception has to be built that it is a positive tool in the hands of local government; and Having statutory guidance from central government which requires local authorities to consider the Well Being Power on request, would help both awareness and potential take-up in financial institutions and the private sector – as well as councils.
D	Effective local champion.	Promotion of use by central government.
E	Change to the predominant legal (risk-averse) culture Clarification of legal and political instruments; and Link use of powers to business planning and Best Value Review processes.	Funding for use; Rewrite as duty; Increase publicity of practical examples – for 2 tier-authorities; Tie use of the Well Being Power to the incentive structure and performance regime of local authorities; and Establish a database of all restrictions on local government.

In relation to changes within central government respondents again referred to the importance of devolution of power to the local level, with greater local flexibility to set priorities and work programmes, plus higher levels of trust (less surveillance and control). This was seen as one of the main changes in the central-local relationship that would help facilitate local innovation and use of the Well Being Power. Resources for underwriting risk, and financing the use of the well being power were again highlighted, particularly in relation to the development of projects and schemes that sought to promote economic, social and economic well being. Case study respondents also made reference to the need for central government to consider how existing and new policy instruments might complement the Well Being Power, its links with Best Value and Local Area Agreements and the LPSAs. Finally case study respondents saw an important role for central government in publicising and promoting use of the Well Being Power. Central government was

identified as potentially providing practical examples about the use of the power in different types of local authorities, and could also refer to the power in its own procedures.

### 4.5.3 Conclusion

There are two specific issues to draw out from the above discussion. The first pertains to the issue of resources. The need for resources to facilitate the use of the Well Being Power has been identified in all demonstration projects and case studies. However it is also clear from the examples of use that we have examined that use of the power can and does occur in local authorities that have limited means, but which see the power as providing an opportunity to deliver something that could not otherwise have been done.

The second issue pertains to the ongoing programme of change that has affected local government and how destabilising/distracting some authorities have found this. This is set against what some respondents perceive as the failure of central government to address its own shortcomings perpetuated in the formal commitments to devolution which are in practice accompanied by additional controls. For some respondents the Well Being Power typifies this approach, offering an apparently wide range of scope for action, which is in practice quite closely proscribed.

## 4.6 IMPACT OF THE WELL BEING POWER ON COMMUNITY LEADERSHIP

Community leadership, as we identified in our baseline report, is a 'slippery concept', with its meaning owing much to the local context. Against this background, we identified three primary dimensions to community leadership: strategic leadership; partnership working; and, community consultation and engagement.

This section examines the relationship between community leadership and the use (or the non-use) of the Well Being Power. In doing so, it poses three questions:

- To what extent has the Well Being Power increased the capacity of local authorities to fulfil their community leadership role?
- To what extent has the Well Being Power shaped local understandings of community leadership in local authorities?
- To what extent does the mechanism of community leadership act as a catalyst for the use of the Well Being Power?

We begin with an analysis of the relationship between community leadership and the use of the Well Being Power in the five demonstration projects. We then examine the evidence collected from the five case study authorities.

#### **4.6.1 Community leadership and the demonstration projects**

Community leadership is cited in four of the five demonstration projects as a significant mechanism in the application of the Well Being Power. It is only in Newham where the evidence collected suggests that the mechanism of community leadership was not significant in the explanation of the use of the Well Being Power.

The use of the power appears to have enhanced the capacity of local authorities to act in favour of the wider community, for example supporting non-council tenants in Wakefield, and to work in partnership, for example the public-private partnership established through the Torbay Development Agency.

Across the demonstration projects, there was recognition among our interviewees of the relationship between the Well Being Power and community leadership (although less so in Newham). In Wakefield, for example, interviewees argued that the council required time to develop its community leadership role, but that the Well Being Power potentially had a lot to offer in support of this role.

In fact, the symbolic or expressive resonance of the broad concept of Well Being itself was generally viewed to be a 'supportive factor' in the expansion of the community leadership role of local authorities. In Torbay for example, there was evidence of a strong association between Well Being and community leadership, with interviewees emphasising different dimensions of community leadership (strategic leadership and partnership working).

However, there are perhaps two important conditions to be noted surrounding the use of the power of Well Being. First, the mechanism of community leadership was acknowledged as only one of several mechanisms at play across the demonstration projects. This recognition of more than one mechanism at play is to be expected and does not necessarily detract from the significance of the community leadership mechanism. However, it raises questions over its significance.

Second, despite the symbolic resonance of the broad concept of Well Being, there was relatively little evidence to demonstrate that the Well Being Power has impacted directly upon existing patterns of community leadership. Rather, it was found that the Well Being Power was primarily interpreted as a secondary factor in the understandings given locally to community leadership (see for example Greenwich, Newham, North Tyneside). In Newham, the Well Being Power was seen as a 'legal power', and not a critical factor in community leadership. In North Tyneside, interviewees stressed the LGA 2000 rather than the specific Well Being Power. In Torbay, where there was a key focus upon community leadership, use of the power of Well Being could be argued to be a 'badging exercise' advertising that the authority was indeed exercising its community leadership role.

#### **4.6.2 Community leadership and the case studies**

Community leadership is cited in four of the five case studies as a significant mechanism in the application of the Well Being Power. It is only in case study D where the evidence collected suggests that the mechanism of community leadership was not significant in the explanation of the use (or non-use) of the Well Being Power.

The case study authorities raise potentially the salience of the community leadership mechanism. Three of the case studies offered evidence of the uses of the Well Being Power and demonstrated traditions of community leadership. Thus, in case study A, where the authority is shifting away from a service-oriented community leadership and towards a wider community leadership role that addresses more directly quality of life and community cohesion issues, there had been some use of the Well Being Power. Equally, in case study B, with a tradition of area-management and strategic partnership working, the Well Being Power had also been exercised. Finally, in case study C, where there was a tradition of community engagement, a strong LSP and community strategy, the Well Being Power had also been used by the authority. In addition, in relation to case study E, it is possible to argue that in the absence of a tradition of community leadership (except in its narrow service delivery orientation), there had been no recourse to the use of the Well Being Power.

However, whilst this evidence supports the potential salience of the community leadership mechanism, case study D offers a contrary indicator through the presence of the community leadership mechanism and its non-use of the Well Being Power. More importantly, an argument could be made that the mechanism of community leadership was present in case study E where the traditional absence of community leadership was increasingly under challenge from a group of officers who recognised the potential relationship between the power of Well Being and community leadership and the capacity of the concept of Well Being to join up many of the issues associated with community leadership.

Again, it is important to recognise that the mechanism of community leadership was acknowledged as only one of several mechanisms at play across the case study authorities.

The use of the power appears to have provided case study C with the additional leverage to act on the behalf of the wider community. However, in case study A, interviewees suggested that the Well Being Power had not enabled cross-cutting work.

There was relatively little evidence to demonstrate that the Well Being Power has impacted directly upon existing patterns of community leadership. In case studies A and B, there was a weak link in practice between the Well Being Power and community leadership. In case study B for example, interviewees felt that in terms of community leadership they were 'doing it anyway' and that the Well Being Power had not contributed to the community leadership orientation of the council. In case study A, interviewees suggested that the Well Being Power played a 'symbolic role' as the council in terms of its community leadership went 'along a line it was already following.'

However, there is evidence to support the importance of the concept of Well Being as an 'organising metaphor' for a wider conception of community leadership, one which could be made manifest in the 'expressive' rather than strictly 'instrumental' use of the power (as outlined in section 4.2.6.). In cases B and E for example, the symbolic resonance of the concept of Well Being in addressing community leadership was recognised by interviewees.

### **4.6.3 Conclusion**

It is possible to draw out three tentative conclusions in relation to the questions posed at the beginning of this section. First in terms of the capacity of local authorities to fulfil their community leadership role, the Well Being Power appears to offer additional leverage to act on behalf of the wider community and enhances capacity to act in partnership. Second, as we said in the BL Report, the Well Being Power is widely perceived to have a general, perhaps symbolic or ‘expressive’ role in enhancing and legitimising the community leadership role. This locates Well Being as a potential ‘organising metaphor’ for bringing together local coalitions around a culture of community leadership (see for example case study E). However, evidence suggests that this role remains, as of yet, unfulfilled in terms of changing established practices of community leadership. Finally the community leadership mechanism appears to be a significant mechanism in the explanation of the use of the Well Being Power. However, it is one of a number of mechanisms at work, which although this is to be expected, it does raise the question of how can we best understand its salience and its role as a mechanism.

# CHAPTER 5

## Early policy and practice implications

This section draws out a number of key issues that have implications for policy and practice in central and local government and for our research.

### 5.1 AWARENESS AND UNDERSTANDING

As we reported earlier, our work so far reveals what can at best be described as a 'patchy' level of awareness and understanding within local authorities and a low level amongst partners. Although we have no direct evidence we may assume that knowledge is at best as variable amongst the public. There is also evidence of differing interpretations of the power – both within and across local authorities. This suggests that there is a clear need for further advice and information to be provided nationally. However, the focus of this advice needs to be carefully considered. Simply directing it at the corporate centre of local authorities (corporate policy makers and lawyers) is unlikely to ensure that it reaches those areas where there is the lowest level of awareness – within service departments and amongst partners – because of the possibility of there being corporate filtering mechanisms in operation (or simply omissions in terms of communication processes) which prevent the widespread communication of such information. In our BL Report we also identified that awareness and understanding of the power is not widespread across departments of central government. It is imperative that future guidance must be carefully targeted for maximum effect. This point is elaborated below.

### 5.2 THE NATURE OF FURTHER GUIDANCE FOR LOCAL AUTHORITIES AND THEIR PARTNERS

The case for further guidance is strong but our evidence suggests that it needs to be focused on different kinds of recipients and be of different formats. The issues that need to be considered in preparing further guidance and information are:

#### 'Reminder' information about the Well Being Power

Our evidence suggests that under the pressure of responding to other government initiatives, local authorities may simply have either forgotten about the power or have not had the opportunity and time to give proper consideration to the use of the power.

### ‘Examples of use’ information

Even within individual local authorities knowledge about actual uses is patchy and sometimes incorrect. There is a strong case for publishing information gained from the demonstration projects and case studies in a way that illustrates not just what the power was used for but also the decision-making and organisational and policy context in which it occurred.

### ‘Legal and policy interpretations’ information

There are a variety of legal interpretations about the role of the power. There are also a number of policy interpretations – which may be influenced by the legal interpretations but which also may result from the culture of local authorities and from a failure to discuss the potential practical utility and benefits of the power.

### ‘Empowering partners’ information

Generally, partners seem to have received little information from their own local authorities. Depending on which policy area they are in, they are likely to have received either a little or no information from their own government departments or agencies, or from other national organisations to which they are linked. They are not therefore in a position to put pressure on their local authorities to make use of the power or to give real consideration as to its relevance in the light of local circumstances and ambitions.

## **5.3 TACKLING LACK OF AWARENESS IN CENTRAL AND REGIONAL GOVERNMENT**

There appears to be a low level of awareness amongst representatives of central and regional government. There is also some evidence that they do not necessarily view the power as being of importance to their policy area. There is also a perception in local authorities that central government has not sufficiently ‘pushed’ and promoted use of the Well Being Power.

There does appear to be a strong case for providing publications for central and regional departments and agencies but there needs to be some discussion within DCLG about how this can be done most effectively. Simply adding to the burden of information that civil servants receive will not necessarily have any marked effect on awareness and understanding.

## **5.4 THE POWER IN RELATION TO OTHER POLICY INSTRUMENTS**

There is evidence to suggest that in some local authorities the Well Being Power is regarded as ‘just a legal power’ and that legal powers in general are not sufficiently brought into discussion in the policy formulation process within local authorities. Legal powers can therefore tend to remain within the purview of lawyers. This is in contrast to other kinds of central government policy initiatives and directives and, in particular, financial policy initiatives, which appear to be more widely communicated and discussed. This suggests that there is a need to explore ways in which the Well Being Power can be ‘reframed’ by emphasising its potential as an

instrument for broadening officials' mindsets about the role of the local authority in improving quality of life, or moving from a strictly 'instrumental' approach to using the power to a more 'expressive' approach as outlined earlier in the report. It is the wider policy implications of the power that need to be better understood as much as its specific possible uses. This might be achieved through focusing any practice publications on how the Well Being Power can interact with other policy instruments (e.g. its role in relation to the Community Strategy and LSP), on its capacity to inform particular processes (e.g. company formation), particular problems (e.g. the use of trading and charging powers), in particular policy areas (e.g. culture). The aim should be to communicate directly with a wider range of actors than are currently aware of the power.

## **5.5 ENABLING GREATER USE OF THE POWER**

The low level of use, the varying interpretations of the power, its status as 'a power not a duty' and its submergence under other central government requirements, all point to the possibility that simply providing more information and advice may not have a significant impact on the way the power is regarded or used. It is therefore necessary to consider what more can be done than simply providing information.

One possibility is the provision by central government of incentives in relation to the use of the power – for example, building a theme for Beacon Council status around use of the power. However, we have concluded that the use of specific incentives is likely to be counter-productive to developing a wider understanding of the broader policy implications of the power that we referred to above. Incentives are likely to reward specific uses of the power and result in a narrowing rather than a broadening of attitudes towards the power at the local level.

We conclude that the most important role for central government is to enable greater use of the Well Being Power by clarifying its relevance in relation to other central government initiatives – particularly where these initiatives influence or change local contextual factors that are relevant to the use of the power – factors that have been identified earlier in this report. Local Area Agreements provide a good example of such an initiative. If successful they will create a number of changes at the local level which may be significant to the potential use of the Well Being Power. It is essential that central government should highlight the potential of the power, in both its instrumental and expressive forms, within the Local Area Agreement initiative.

We also conclude that central government must give consideration more generally to the combined impact of the policy and performance framework it creates for local government to identify whether there are changes that could be made that would be create a greater likelihood of local authorities adopting the general intent and spirit of the power.

## **5.6 COMMUNITY LEADERSHIP, CPA AND THE WELL BEING POWER**

While the evidence is mixed, it would appear that local authorities have somewhat different interpretations of the community leadership role and are at different stages of development. However, there is awareness that the Well Being Power is linked to the role. There is also evidence that the dominance of CPA in recent years and its failure to address issues of community leadership have held back the development of community leadership. The fact that community leadership will in future be addressed as part of the CPA is important but its success at facilitating a stronger linkage with the Well Being Power will be dependent on how the Audit Commission shapes this part of the assessment. It is important that local authorities do respond to the Audit Commission's consultation on its revisions to the CPA assessment framework in relation to community leadership. It is also important that DCLG ensures that it is in line with its own emerging definitions and expectations of the role.

## **5.7 OVERVIEW AND SCRUTINY AND THE WELL BEING POWER**

While we have not obtained a great deal of direct information about how the power is considered and used within the overview and scrutiny process, Case Study A does suggest that there is a need to consider the link between the scrutiny process and the Well Being Power. This may be of particular importance where overview and scrutiny is used in the pre-decision process as a form of policy development – something that occurs in a number of authorities. It may also become of increasing importance as local authorities move increasingly to broad, thematic review and scrutiny topics.

## **5.8 THE 'WELL BEING' RHETORIC AND THE WELL BEING POWER**

There appears to be some acceptance of the notion of 'Well Being' as a general concept – although its interpretation may vary from place to place. The term appears to be used in a variety of ways. For example:

- In relation to particular outcomes to be achieved
- As a symbol of a holistic approach to policy making – the integration of social, economic and environmental. In this use it is closely linked to concept of sustainability
- As a symbolic justification for the local authority's role as community leader

However as has been demonstrated throughout this report (see particularly sections 4.2.6, 4.3 and 4.6.) this is not necessarily closely linked in a practical way to the use of the Well Being Power itself. The relationship between a local authority's concerns for the overall Well Being of its communities is not linked consistently enough in people's minds to the existence and opportunities offered by the Well Being Power.

## 5.9 THE 'I HAVEN'T HEARD ABOUT IT THEREFORE IT CANNOT BE IMPORTANT' FACTOR

In the highly congested and complex policy context in which local, regional and central government decision-makers operate there does appear to be a problem that policy and legislative initiatives are 'competing to be heard.' Our research suggests that officials at local, regional and central levels of government are selective in what they respond to and that, if there is not a great deal of 'noise' reaching them about a particular initiative, they can assume it is not relevant or important.

## 5.10 IS THE WELL BEING POWER FIT FOR PURPOSE?

Many of the preceding points are predicated on the assumption that better information, communication and definition can increase use of the Well Being Power. But we also have evidence that some respondents do not see the Well Being Power as fit for purpose. They see it as a relatively weak power that is only a very partial relaxation of the *ultra vires* rule and hence provides an uncertain message. It stresses that local authorities can 'do anything...' but not if there is a prohibition, restriction or limitation contained in any other legislation or regulations. The latter statement may have the effect of discouraging exploration of its possible use.

There are two related issues here. One is that wider policy changes may, over time, facilitate greater enthusiasm about the capacity of the Well Being Power as more examples of use make it into the public domain. However, if these examples of use fall into a relatively narrow band and/or if they are seen as facilitating relatively peripheral interventions, then perceptions about the limited utility of the Well Being power may harden. Following up the experience of our case studies in 2006 will provide us with important indications in relation to this issue.

## 5.11 POTENTIAL POLICY AND RESEARCH ISSUES

There are 3 additional issues that have arisen in our research that we consider it necessary to pursue in our future research activities. These are:

- The power in relation to specific rural issues
- The power in relation to cross-border issues.
- The power in relation to freedoms and flexibilities and powers to trade. Although we have not obtained any specific evidence on this issue from our research so far, some respondents have mentioned it as an important issue and we anticipate that it will become increasingly important during the remainder of our research.

# CHAPTER 6

## Next steps in the work programme

The main research activities and outputs for the remainder of the evaluation (2005/6) are as follows:

1. To identify and negotiate access to a further round of 5 demonstration projects.
2. To make return visits to each of our 5 case studies
3. To run up to 4 Action Learning Sets (subject to take-up).
4. Qualitative research with other stakeholders.
5. Literature review
6. To prepare and have published relevant dissemination materials and to run appropriate dissemination events.