

Modernising local government

Improving local services through best value

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Preface

by the Deputy Prime Minister and
Secretary of State for the Environment,
Transport and the Regions



When we were elected we pledged to modernise the country and to bring government back to the people. Local government has a key role to play in our country if people are to have the quality of life they deserve. So modernising local government is at the heart of this pledge.

Our agenda is the renewal of local democratic government, leading local communities and serving local people. We want councils to gain a new democratic legitimacy. We want them to follow new ways of working and to adopt new disciplines such as best value. We want councils, renewed in this way, to have the new powers they need to lead their communities. And we want finance systems which match their roles and responsibilities.

We can achieve this only by working with councils, businesses, professional bodies, the voluntary sector and local people. Equally, within local communities all must work closely together in partnership. Most importantly, we are now seeking your views on how together we can achieve our agenda.

We are now publishing a series of papers – of which this paper is one – inviting comments and debate on our proposals for renewing local government in this country. I do hope you will respond. By doing so you will be playing a part in the rebirth of democratic local government, a rebirth which we firmly believe is vital to building a modern Britain and a decent society.

A handwritten signature in black ink that reads "John Prescott". The signature is written in a cursive, flowing style.

John Prescott

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CHAPTER 1

The need for change

- 1.1 Improving the quality of local services, and the efficiency and economy with which they are delivered, is a key objective of the Government's plans to modernise local government. Its manifesto commitment to introduce a duty on local authorities to obtain **best value** will be the principal means by which these improvements are made. It will complement the parallel changes that are proposed to the way in which councils engage with and lead their local communities (the programme of **democratic renewal**) and to the conduct of elected members and employees (the new **ethical framework**). These changes, together with those proposed for the **local government finance system**, will reinforce and re-invigorate local democracy, restoring local choice and accountability.
- 1.2 Efficient and effective public services are an essential part of the fabric of a healthy democratic society. Many local authorities recognise this and successfully achieve high standards, often in difficult circumstances. Others are less successful, and provide services that fall well short of the best that can be achieved within the resources that are available. The Government's proposals for best value will address these shortcomings head on. They will require councils to meet the aspirations of local people for the highest quality and most efficient services that are possible at a price that people are willing to pay.
- 1.3 The Government recognises that there have been many examples of improvements to both the efficiency and effectiveness of local services in recent years, and that some of these have been dramatic. Such improvements have generally taken place where councils have been highly responsive to the needs of their local electorate and innovative in deciding how and by whom services should be delivered. Changes have often taken place without any increase in resources: indeed resources have frequently been freed to improve services **and** keep down local taxes. We aim to build on these successes.
- 1.4 We will learn from the lessons of the past. Some initiatives have succeeded in sharpening performance and encouraging new skills and resources from the private and voluntary sectors into local government. Others have had positive effects, but because they were imposed or seen in isolation from other measures, the benefits that they brought have been offset by a tendency to discourage local ownership and responsibility.
- 1.5 Compulsory competitive tendering (CCT) is an example of this last sort of initiative. It required authorities to consider the standard and cost of the services for which they were responsible, and widened the choices available as to how services were provided. It persuaded reluctant authorities to address difficult management issues that needed to be tackled. But under CCT service quality has often been neglected and efficiency gains have been uneven and uncertain, and it has proved inflexible in practice. There have been significant costs for employees, often leading to high staff turnover and the demoralisation of those expected to provide quality services. Compulsion has also bred antagonism, so that neither local authorities nor private sector suppliers have been able to realise the benefits

that flow from a healthy partnership. All too often the process of competition has become an end in itself, distracting attention from the services that are actually provided to local people. In short, CCT has provided a poor deal for employees, employers and local people. CCT will therefore be abolished.

- 1.6 A culture in which authorities decide what services are to be provided on the basis of what suits them as providers is not an option. There is a better way, designed to put the interests of the public first. It derives from local authorities' unique status as directly elected bodies, and is based on their ability to provide community leadership and a focus for partnership. In effect, they will need to guarantee efficient and effective local services irrespective of who it is that actually delivers those services. The Government's approach to improved local services is a pragmatic one. What matters is what works. The form of service delivery should not be determined by ideology. Both public and private sectors have important roles to play, often in partnership.
- 1.7 At the same time, sustained improvements to services are more likely where those who use and pay for them are given a greater say in how they are run: in setting the appropriate standards, for example, and in deciding how those standards should be met and by whom. So in putting into place an improved framework for managing the performance of local services, the Government will ensure that service users and local taxpayers are empowered to influence and monitor their cost and quality.
- 1.8 Local accountability requires that authorities take responsibility for acting decisively where service performance falls short. The Government will seek to develop a framework which encourages authorities to identify and tackle weaknesses in performance at an early stage. It also expects local government itself to play a part in providing support to those who are unable or unwilling to do so. But we will not sit back and see persistent failure ignored or inadequate remedial measures left in place.
- 1.9 There is no single measure that can secure these improvements. The Government's approach is founded on the belief that improvements are more likely where a range of measures are deployed effectively, and where their use is tailored to local circumstances. With over 400 local authorities and 41 police authorities in England alone, each providing a wide range of services, it would be wasteful and inefficient to rely on any single measure to secure the improvements to local services that are required.
- 1.10 The Government has already taken steps to give effect to this approach. It has, for example, revised the statutory framework for CCT, reducing much of the detailed prescription and providing incentives for authorities to pursue voluntary partnership arrangements with the private sector. It has selected almost 40 local authorities and two police authorities to pilot a best value approach to service improvements, and has exempted them from much of CCT so as to encourage innovative partnership developments. Their experience will have an important bearing on the way in which the best value framework is shaped and put into effect. And the Government has indicated its willingness to look again at the restrictions which limit an authority's ability to carry out a service for others – the provisions of the Local Authority Goods and Services Act 1970 – and at the factors that can be taken into account in selecting contractors – Part II of the Local Government Act 1988 – consistent with its European obligations and the need to ensure value for money. Insofar as there are other factors which inhibit successful partnerships, the Government will review the case for change on a pragmatic basis.

- 1.11 It will consult shortly on possible changes to the local government finance system to encourage greater fairness and flexibility in the way resources are made available to councils, and has also consulted on possible changes to the legislation that affect the terms and conditions of employees when a service changes hands, as part of its fair employment agenda – the Acquired Rights Directive and the Transfer of Undertakings (Protection of Employment) Regulations 1981. For it recognises that if services are to be responsive to the needs of their customers then those who deliver them have a key role to play: a well trained and motivated workforce will underpin efficient and effective local services.
- 1.12 Obtaining best value will not be an optional extra to be considered once authorities have set their objectives and priorities for the year ahead. Nor will it be compulsory only for those authorities that are noticeably failing to provide a decent service for local people. It will apply to all authorities, large and small, good and bad, in rural as well as urban areas, and will affect elected members and officers alike. It is designed to achieve a commitment to sustained improvement both in the quality of services provided and the price at which they are offered.
- 1.13 The full benefits of best value will only be achieved if local government responds with energy and enthusiasm. The Government can create a framework which will encourage and enable change to take place – and can promote initiatives, such as the Better Government and Better Regulation initiatives, which will identify good practices and disseminate them widely. But unless the new framework is embraced wholeheartedly by local government itself the results will disappoint.
- 1.14 The commitment of local government to the cultural changes which best value is designed to bring about is therefore vital. The Government is encouraged by the support it has received for its best value proposals from the local government community as well as from the wider community, including the private and voluntary sectors and the trades unions who wish to play their part. In particular, it very much welcomed the large number of bids received to pilot best value, and noted favourably the variety of imaginative schemes put forward. The Government also acknowledges the progress that has been made by many organisations in developing both the best value and fair employment agenda, and will support initiatives that seek to achieve a broad consensus on the way forward. It will continue to develop its proposals in close consultation with both communities, and this paper marks a further important milestone to that end.
- 1.15 Government Departments will, over the coming months, seek to work with local government and others in tailoring the best value framework to individual services and circumstances. The Home Office for example, will be shortly issuing a separate consultation paper highlighting the particular issues which the best value proposals raise for police authorities and forces. It will work closely with the Association of Police Authorities, as well as with the Association of Chief Police Officers, to develop the best value framework in such a way that it is right for the police and is consistent with work already in hand on value for money.

- 1.16 This paper is the second in the series of consultation papers addressing the modernisation of local government. The Government welcomes comments from all those with an interest in local democracy, and in particular in the way in which local services are delivered. **Two copies of all responses should be sent no later than 1 May 1998 to Caroline Henthorne, Local Government Competition and Quality Division, Department of the Environment, Transport and the Regions, Zone 5/C5, Eland House, Bressenden Place, London SW1E 5DU. Fax: 0171 890 4242.** If when responding to any of the other consultation papers in the series, you wish to add to your comments on the issues covered in this paper, it is of course open to you to do so.
- 1.17 Ministers may wish to publish responses to the consultation paper in due course or deposit them in the libraries of the Houses of Parliament. Should respondents wish their comments to be treated in confidence, they should make this clear in any papers they submit. All responses may nevertheless be included in statistical summaries of comments received and views expressed.
- 1.18 Responses to this and the other consultation papers on modernising local government will be considered carefully. The Government's detailed proposals will then be brought together as a White Paper in the early summer. Its intention is to seek legislation as soon after the White Paper as Parliamentary time and other legislative priorities permit.

CHAPTER 2

The key features of best value

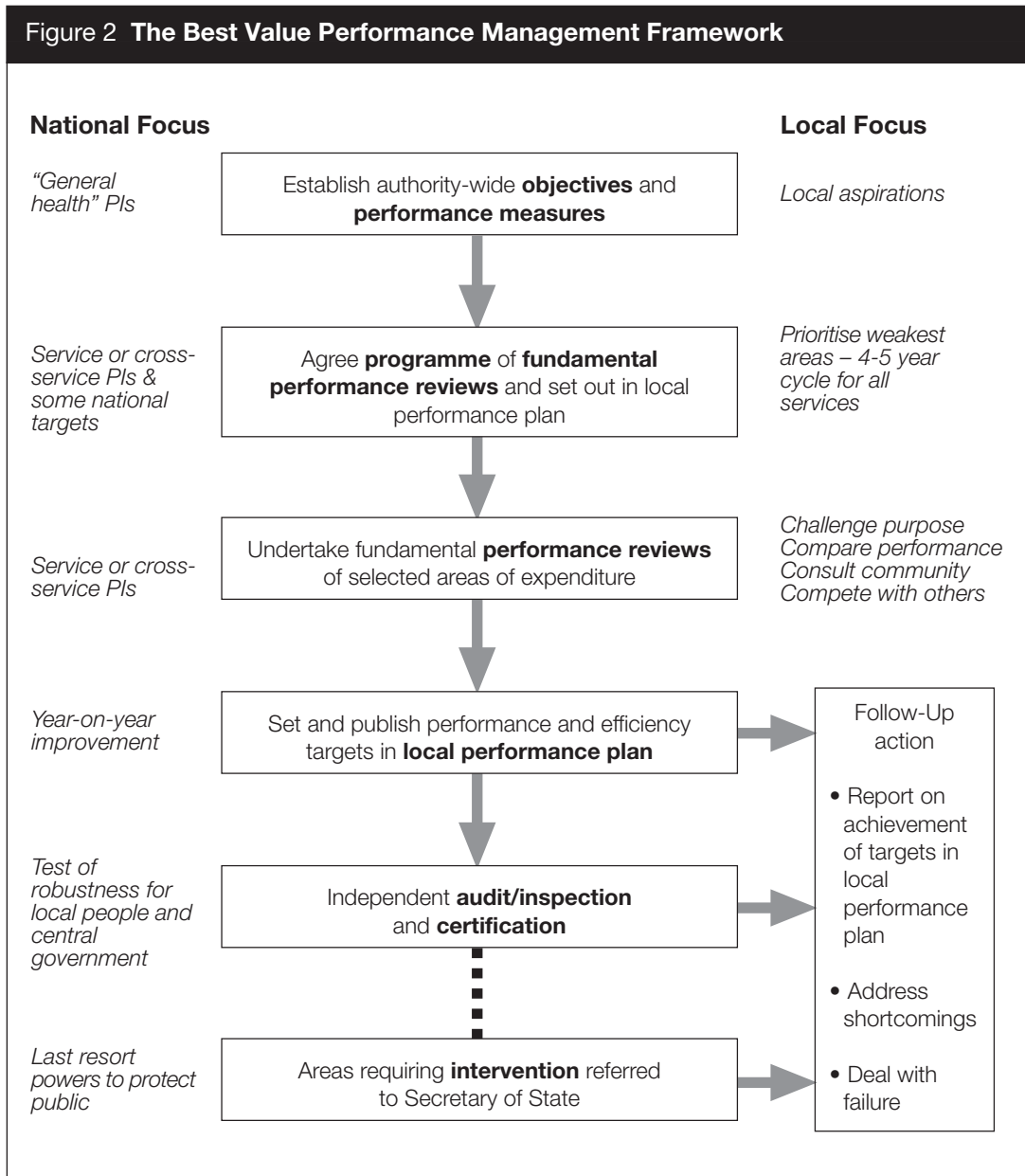
- 2.1 The Government published the provisional key principles underlying its approach to best value in June 1997. These are reproduced in Figure 1 (below). They make clear that the duty of best value is one that local authorities will owe to local people, both as taxpayers and users, and that it is intended to apply to all local authority services. The principles emphasise that the quality of services as well as their cost matters, and although there will be no compulsion to put services out to tender there should be no presumption that services should be delivered directly if other more efficient and effective means are available. Competition will continue to play an important role. Setting performance targets, as part of regular service reviews, and reporting achievement publicly against those targets in Local Performance Plans, will be fundamental in demonstrating whether best value is being obtained. And although the Government would support authorities in tackling performance failure, it would not hesitate to intervene more directly if authorities were reluctant to put matters right quickly and effectively.

Figure 1

Best Value – 12 Provisional Principles (June 1997)

1. The duty of Best Value is one that local authorities will owe to local people, both as taxpayers and the customers of local authority services. Performance plans should support the process of local accountability to the electorate.
2. Achieving Best Value is not just about economy and efficiency, but also about effectiveness and the quality of local services – the setting of targets and performance against these should therefore underpin the new regime.
3. The duty will apply to a wider range of services than those covered by CCT.
4. There is no presumption that services must be privatised, and once the regime is in place there will be no compulsion for councils to put their services out to tender, but there is no reason why services should be delivered directly if other more efficient means are available. What matters is what works.
5. Competition will continue to be an important management tool, a test of Best Value and an important feature in performance plans. But it will not be the only management tool and is not in itself enough to demonstrate that Best Value is being achieved.
6. Central government will continue to set the basic framework for service provision, which will in some areas as now include national standards.
7. Detailed local targets should have regard to any national targets, and specified indicators to support comparisons between authorities.
8. Both national and local targets should be built on the performance information that is in any case needed by good managers.
9. Audit processes should confirm the integrity and comparability of performance information.
10. Auditors will report publicly on whether Best Value has been achieved, and should contribute constructively to plans for remedial action. This will include agreeing measurable targets for improvement and reporting on progress against an agreed plan.
11. There should be provision for intervention at the direction of the Secretary of State on the advice of the Audit Commission when an authority has failed to deliver Best Value.
12. The form of intervention should be appropriate to the nature of failure.

- 2.2 The Government stands by these broad principles, although they are not intended to be fully comprehensive. The proposals in this consultation paper flow from them. The duty to obtain best value is designed to ensure principally that authorities provide the services that people require economically, efficiently and effectively. It is a duty which reinforces rather than replaces the fiduciary duty which the courts have confirmed applies to local authorities' stewardship of their resources. Although there is room for further debate about how the new duty of best value might be precisely framed, the intention is that authorities will be required to demonstrate to local people that the services they provide are economic, efficient and effective. They will succeed in doing so where they can show that their performance against these criteria is consistent with the broad but rigorous performance management framework which the Government intends to prescribe. An independent external audit/inspection will form part of that framework.
- 2.3 Such a framework is expected to require the following key steps:
- i. a corporate view of what an authority wants to achieve and how it performs, measured against key indicators and the aspirations of the local community;
 - ii. an agreed programme of fundamental performance reviews, with a presumption that it will look first at areas where performance is worst, and complete a full cycle of reviews over a 4/5 year period;
 - iii. fundamental performance reviews, each of which challenge the purpose of a service or group of services, compare the authority's performance with others, consult the community, and provide for competition where appropriate;
 - iv. the setting of targets for improved performance and efficiency, together with clear identification of how these improvements are to be achieved; the publication of these targets and of reports of performance against those targets in due course, in Local Performance Plans;
 - v. an independent audit/inspection of the integrity of the service reviews and performance targets, and certification of the monitoring information;
 - vi. referral to the Secretary of State in cases of serious or persistent failure, with a view to intervention.
- 2.4 Figure 2, page 11 shows these key steps, somewhat simplified. In practice, there is an overlap between some of them, and the intention is that these should as far as possible build on what authorities already do as a matter of good practice. The Government is keen to ensure that the best value framework is realistic and practical even as it brings a radical perspective to service provision.



2.5 Failure to perform against the demanding standards which the Government expects to flow from the best value framework will be inevitable in some cases. Very often such failures can and will be put right quickly and effectively without the need for any outside intervention. Local accountability requires nothing less, and the Government's proposals for a graduated approach to failure recognises that. In the event of serious and persistent failure to provide the services that local people have a right to expect, the Government will wish to ensure that it has the necessary powers to act to reinforce local accountability.

2.6 At the same time, it wishes to give proper recognition and support for success. It will do this principally by trusting local government to act responsibly, and by ensuring that the legal and financial frameworks within which authorities operate facilitate rather than hinder sensible measures to improve local performance. A fair and efficient local government finance system is clearly central. Separate consultation papers will address the key financial issues, including the scope for changing the way in which resources are allocated and the way in which crude and universal capping is replaced. Equally central are

the Government's proposals on local democracy, particularly those to provide authorities with new and wider powers to respond effectively to local circumstances. In these and other ways, the Government intends to demonstrate its commitment to tackle the wider issues that impinge on an authority's ability to provide quality services at a price people are willing to pay.

CHAPTER 3

Defining best value

THE DUTY OF BEST VALUE

- 3.1 The Government proposes legislation that will create a statutory duty on local authorities (including police and fire authorities) to obtain best value by securing economic, efficient and effective services. That duty is one that local authorities will owe to local people, both as taxpayers and as the users of local authority services.
- 3.2 As far as possible, the intention is to specify only a general framework, within which local authorities will be free to establish what their communities require and to respond as they judge appropriate within the resources available to them. Yet there is also a need to put pressure on poor or mediocre authorities to seek sustained improvements in service standards whilst controlling and as far as possible, reducing costs. Achieving the right balance between local discretion and central specification is therefore the key to the success of the policy.
- 3.3 The Government does not intend that the duty of best value should transfer decisions about cost and quality in local services from councils to the courts or auditors. The balance between cost and quality can be a complex judgement, and it is appropriate that decisions are taken, wherever possible, by locally informed, elected and accountable people. While continuing to set the national framework – which will in some cases include the specification of service standards or targets – the Government intends to restore fiscal responsibility and accountability to local government, and to become less involved in the detail of local decisions. It intends that councils should be accountable primarily through the ballot box to local people, rather than to the Secretary of State, in their duty to obtain best value.
- 3.4 This would suggest that the duty should not be expressed as an absolute obligation, which would make decisions vulnerable to challenge by anyone claiming that they see a better or less costly way to provide any service. But the duty will put authorities at risk of challenge if they fail to meet service targets and fail to follow the general framework: in particular by failing to set up arrangements to secure a sustained improvement in quality and cost. Such arrangements will allow for: consultation with local people on service aims and standards; reviews which look objectively as to how those services are to be provided and standards set; and the use of a combination of benchmarking, performance indicators and competition to ensure real change on the ground year-on-year.
- 3.5 If an authority fails to implement such arrangements, it would be open to criticism by the auditor or local inspector, and local people should have regular opportunities to challenge those decisions. In cases of extreme or persistent failure there will be a power of intervention by the Secretary of State. Normally this would be the Secretary of State for the

Environment, Transport and the Regions, but other Secretaries of State will be able to intervene where it is appropriate for them to do so, for example where services for which they are responsible in Government are affected. To this extent the duty to obtain best value gives statutory effect to the common law fiduciary duty. Section 15(1)(c) of the Local Government Finance Act 1982, which requires auditors to satisfy themselves that authorities have made proper arrangements for securing economy, efficiency and effectiveness in their use of resources, is a useful starting point.

- 3.6 The statutory framework will apply the duty to each authority and identify the responsibilities to which the duty applies. The Government intends to apply the duty to all services which a local authority provides, whether directly by the use of its own staff or indirectly through the use of the private and voluntary sectors or through partnership arrangements.
- 3.7 It is minded to apply the duty to all local authorities that have tax raising or precepting powers, and to many with levying powers, including combined fire and police authorities. This would, for example, include local education authorities, but exclude individual schools because they have no independent tax raising powers. Town and parish councils should, in the Government's view, achieve best value as much as any other group of authorities, but the scale of their activities is generally such that a full and prescribed process may not be justified in the same way as it is with other local authorities, and separate arrangements might therefore be needed.

THE DUTY TO CONSULT

- 3.8 Best value is inherently about judgements on the quality and cost of services. Those who do not pay local taxes, or whose expenditure is covered by benefits, may have a different view from taxpayers, but it is not intended that the duty should be directed only to those who pay council tax. Those who pay for local services through charges or rents, and businesses whose financial contribution is at present through the unified business rate, also have a financial interest in the cost of local services. A wider range of people who make no financial contribution, whether because they are not resident in the area or because they are not tax payers, also have interests which could be taken into account.
- 3.9 Businesses within a local authority area are both taxpayers and direct or indirect service users of many local services. They may also be one of the means by which local authorities can deliver best value. Consultation with the local business community, as well as with individual members of the public, will therefore be necessary. A statutory requirement on local authorities to consult business representative groups, including representatives of small firms, at key stages would probably be sufficient, but may need to go further than the current duties to consult in respect of expenditure plans and the promotion of economic development. The Government will not wish to finalise its views on this without considering comments on its parallel proposals to involve the local business community in other local authority financial matters, including decisions on the non-domestic rate.
- 3.10 Legislation could prescribe a framework for the form and timing of consultation. Consultation could be achieved, for example, through general publicity, through specific mailing of individuals and businesses, through regular feedback related to specific services, or in respect of the whole impact of the council's services on particular groups or

communities. A combination of such methods, decided locally, might be feasible. The timing of the consultation process would ideally be related to the budget cycle, although this might be difficult to achieve across all services on an annual basis. The process of consultation might, therefore, need to have a longer term focus recognising that it could sometimes be difficult to adjust services instantaneously. Either way the local consultation process will be effective only insofar as it secures and sustains a positive response from local people. This will depend in part on local authorities' responsiveness, and the skill and transparency with which the issues are presented. But it will also depend on public perception of progress in restoring fiscal responsibility to councils and in involving local people in local decisions.

- 3.11 A formal requirement to consult in a particular way would not in itself guarantee a responsive and sensitive process, or guarantee a sense of interest and involvement by local people. There is probably no one mechanism that will be appropriate in all circumstances: individual local authorities and people will need to consider what suits their local circumstances best, building on the good practice that authorities have been developing through initiatives such as Local Agenda 21. The Government therefore favours a duty to consult cast only in general terms, leaving the process open to local discretion and the development and dissemination of best practice, including that learnt from the pilot schemes. It will take into account, however, responses to its proposals to involve local communities in shaping local services such as those described in the consultation paper on local democracy and community leadership.
- 3.12 **The Government would welcome views on the proposed form of the duty of best value, and also on whether:**
- i. **the duty should apply only to authorities with tax raising, precepting and levying powers (para 3.7);**
 - ii. **the duty to consult should include those who use services and the local business community (para 3.8);**
 - iii. **the duty to consult should be drafted in general terms only, leaving authorities free to decide how consultation should be conducted in the light of local circumstances (para 3.11).**

CHAPTER 4

Improving performance: Best value in practice

- 4.1 The duty of best value will apply to all local authority services, and the framework to put that duty into effect will promote local accountability and sustained improvement in service performance. Central government will set that basic framework and in some areas specify minimum standards and possibly targets, but generally both standards and targets should be set locally. This diversity of approach can be justified in terms of the different interests which central government has in respect of the performance of local services.
- 4.2 The performance management framework summarised in Figure 2 (Chapter 2) identifies the key elements which in the Government's view will be required of authorities so as to give effect to the duty of best value. The Local Performance Plan will provide the common link between these elements and the principal means by which authorities will be held accountable for the quality and efficiency of their services. In developing this proposed framework, the Government will draw on the experience of the pilot best value authorities and of others.

CORPORATE OBJECTIVES AND PERFORMANCE

- 4.3 Authorities will be expected to agree a programme of fundamental performance reviews at an early stage. Such a programme needs to be firmly rooted in the corporate planning processes through which an authority identifies its objectives and priorities, and the values that underpin them. The Government has already published its proposals on how an authority might successfully engage with the wider community, including with other public sector organisations charged with providing services to local people. That engagement, where properly conducted, will help authorities to identify how others see their performance, not just as effective candidates for local leadership, but also as providers of key local services.
- 4.4 There will, however, be other means by which authorities can establish whether they are providing the right quality of services at a fair price, including comparing their performance against that of other councils. The Government wishes to encourage informed comparisons between authorities, both to strengthen accountability and to inject a wider perspective into the programme of performance reviews.
- 4.5 The Government is therefore considering how best to develop a simpler and sharper framework of indicators that reflects the overall performance of authorities as well as the appropriate relationship between central and local government in the different service areas. It has held preliminary discussions with the Audit Commission, the Local Government Association and the Association of Police Authorities as to how this might

be achieved. It is attracted to the proposition that there should be a small number of key performance indicators against which all authorities would be able to assess their general management performance against that of other authorities. These would need to be sufficiently flexible to reflect the social conditions within an authority. Poor performance against these indicators would suggest potential problems that need to be addressed and pose questions as to overall authority performance: they would provide a general health warning only and supplement the more specific, mostly service based performance indicators with which authorities may be more familiar.

REVIEW PROGRAMME

- 4.6 Where there was a prima facie case that an authority was performing poorly, either against its own standards of efficiency, economy and effectiveness or against those which others are able to achieve, it would be expected to reflect the need for early action in its review programme. The presumption might be that the poorest performing services were reviewed first, but that in any case a proportion of an authority's services should be reviewed each year. That proportion could be based on authorities' overall expenditure, say 20/25% of budget per annum, in which case over a 4/5 year period all areas of an authority's expenditure would be reviewed. A Local Performance Plan would reflect this programme at the outset and be rolled forward annually.
- 4.7 The Government recognises that authorities would not necessarily wish to review their performance on a service by service basis, although that might be the most straightforward approach at least initially. Its proposal that a percentage of expenditure should be reviewed annually leaves it open to an authority to decide how best the general requirement might be met. An authority wishing to review the way in which its services impinge on a particular neighbourhood for example, or affect a particular social group, or address a particular issue, would be free to do so provided it could demonstrate that such an approach was consistent with its assessment of overall performance and with its corporate objectives, including that of sustainable development. The pilot best value programme includes a number of projects which address cross-cutting issues, and the Government will wish to take full account of their experience in developing the review process.

FUNDAMENTAL PERFORMANCE REVIEWS

- 4.8 The principal outcome of each review would be the setting of improved performance targets in respect of economy, efficiency and effectiveness, and an action plan showing how they were to be achieved. The onus would be on the authority to demonstrate why the targets had been set as they had, and why it had chosen a particular route to achieve them. In practice, the reviews will be expected to:
- i. challenge why the particular service(s) is needed at all, and if so whether it needed to be provided in any particular form;
 - ii. compare performance with others across a range of relevant indicators, taking into account the views of both service users and potential suppliers;

- iii. consult with local taxpayers, service users and the wider business community in the setting of new performance targets;
 - iv. compete in the sense of demonstrating that the preferred means of delivering the service(s) has been – or will be – arrived at through a competitive process.
- 4.9 In carrying out these reviews, local authorities will be able to draw on the now extensive experience of the Charter Mark scheme. Local government's record of success year by year speaks for itself, and the Government recognises the contribution which preparation for the Charter Mark can make towards improving the quality of those services that deal directly with the public. This and other quality initiatives have an important role to play in driving forward the cultural changes that are needed under best value, although they are not in themselves its guarantors. The Government would welcome views as to how the potential links between best value and such quality initiatives might be taken forward.

CHALLENGING PERFORMANCE

- 4.10 Asking why a particular service(s) should be provided at all is important in that it opens up the possibility of meeting community needs in entirely new ways. Very often the pattern of service provision is more a reflection of custom and habit than a measured response to current circumstances. Reviews will need to challenge traditional ways of providing services if they are to serve their purpose. Where authorities have statutory responsibilities to provide particular services then there may be less scope for radical change, although these are frequently defined in broad terms only. Even where it might be difficult to dispense with a service altogether, the review might be expected to throw up alternative ways in which the service might be provided. The Government's prior options reviews which it seeks of its agencies are a possible model.

COMPARING PERFORMANCE

- 4.11 A rigorous comparative approach to the setting of targets and the consideration of alternative means of delivering services will be a significant feature of the reviews. The Government recognises that the experience of performance indicators has been mixed, both nationally and locally. Without a rigorous basis for collecting and presenting performance against key indicators, and a real sense of ownership of the information that is published, there is a risk that resources can be diverted away from the issues which matter most to those at the sharp end of service delivery. It is also the case that progress in measuring performance outcomes, as against inputs for example, has been slow, and that as a result it is sometimes difficult to make consistent judgements about success or failure. Even so, performance indicators are an important aid to judgement, and all authorities use indicators in one form or another to keep abreast of their performance. Increasingly sophisticated approaches to the setting and use of indicators are being developed. Some authorities have joined together to develop important benchmarking and other arrangements which have enabled authorities to learn from each other, and improve their performance. The Government has no intention of discouraging these developments. They represent initiatives which best value will be designed to foster, and through the pilot best value programme there will be further opportunities to learn lessons as to what works in what circumstances.

- 4.12 Local authorities will generally be free to decide what indicators they use in reviewing their services and in setting targets, in consultation with service users and others. But there is a strong case for prescribing some indicators nationally so as to enable comparisons between authorities to be made on a common and consistent basis. The statutory performance indicators already prescribed by the Audit Commission provide an important and increasingly useful source of comparative information on performance. The Government is considering how best to build the experience of the statutory indicators into the proposed best value framework. It will work with the Commission, the Local Government Association and others to establish for each key service a limited number of indicators – covering efficiency, economy and effectiveness – on which authorities will need to report performance and set targets for future years as part of the review process. It will also draw on current work on cross-cutting issues, for example youth crime, in developing performance measures, so that these too can be used to compare performance locally.
- 4.13 The Government recognises the importance of selecting indicators that do not provide unintended incentives to distort the pattern of service provision. It will therefore consult separately on its proposals for both general health indicators and service specific indicators later in the year. Wherever possible, it will seek to ensure that any additional requirements are offset by reductions elsewhere, for example by phasing out the current statutory indicators as the new framework is put in place. It expects however to achieve a significant measure of continuity and consistency between the old and the new. In some core services, the Government will also set minimum standards or targets, where Parliament has taken the view that there is an overwhelming national case for doing so. Authorities will clearly need to consider their performance against such targets during the review process, and include these too in their Local Performance Plans.

CONSULTATION

- 4.14 Authorities will be required to consult the local community – including local taxpayers, service users, and local businesses – as a key element of the reviews. Most authorities have well-established ways of doing so, and the Government has no plans to prescribe how consultation should be carried out. The form of consultation will depend on the nature of the service, on existing consultation processes, and crucially on the issue in question. The Government's consultation paper on local democracy and community leadership identifies five broad ways in which the public might be more fully involved in their local authorities' activities, and encourages an open debate as to what is most appropriate in the different circumstances. Putting people first requires as a minimum that consultation should be undertaken corporately and at the key stages of the fundamental performance reviews – in establishing the views of the local community on the current and proposed performance of the service or services in question, for example, and on the options for delivering an improved service including the trade-off between quality and cost. The Government would also expect the local community to be involved in identifying the indicators of importance to them locally and in setting the performance targets in respect of both central and local indicators which will feature in Local Performance Plans. These plans are expected to provide a useful vehicle through which genuine local accountability can be assured.
- 4.15 Good management practice should normally mean that staff are involved in any plans to change the way in which services are provided, and are consulted about changes in service conditions or employment terms. It is clear from the experience of the private sector that

the difference between a good and a world-class company is the extent to which they involve their staff in all forms of change. Similar conclusions can be drawn within the public sector, including local government, and these lessons need to be applied more widely. In particular, the process of sustained improvement will be most effective when employees share the authority's ambitions to respond to public demands for high quality and cost efficient services, and are encouraged to contribute from their first-hand experience of service delivery. The Business Excellence Model and Investors in People are just two of the initiatives which give full recognition to these factors, and the Government acknowledges the contributions which they and other quality schemes are able to make.

COMPETITION

- 4.16 The best value framework will not require services to be privatised. Nor will it specify how a service should be provided. However the duty to obtain best value means that services should not be delivered directly if other more efficient and effective means are available. Competition will therefore continue to be an essential management tool for securing improvement, and an important means of demonstrating in a transparent way that best value is being obtained. The Government is minded to issue statutory guidance to the effect that an authority must have a clear and auditable means to demonstrate that the services for which it is responsible are being provided at a cost and to a standard which bear comparison with the best. This guidance – which might take the form of good procurement or tendering practice – could include a general presumption that services should be exposed periodically to competition except where authorities are able to argue convincingly why this is inappropriate. The Government has no intention, however, of returning to the somewhat mechanical and inflexible approach to contracting which CCT characterised all too often. It recognises that effective partnership requires a different approach, which reflects the characteristics of the service in question and the preferences of the private and voluntary sectors, as well as service users.
- 4.17 It is in no-one's interest, not least that of the local taxpayer, for there to be an external competition with no prospect of it attracting interest from prospective providers. Under CCT this has not been unusual. There is no good reason why this should be the experience under best value. Fair competition in a climate where employees' rights are respected, and where local authorities and the private and voluntary sectors are working in partnership to deliver what local people want, should encourage new providers and therefore new options for delivering efficient quality services. The process of carrying out a fundamental performance review should be designed to foster an open and constructive dialogue with all those who might have something to offer – be it expertise, innovative skills, or financial resources. Encouraging a healthy and diverse market for local services should not therefore be seen as a burden on authorities but as a necessary step in obtaining best value for local people.
- 4.18 To the extent that authorities are successful through the review process in attracting interest in alternative ways of providing services, they may conclude that there are advantages in providing a service on a partnership basis – through, for example, a joint venture company. The Government is keen to encourage such partnerships. They can bring additional private sector resources to areas where they are needed, and enable local authorities to plan ahead with more confidence. In some circumstances, the partnership route can enable an authority to concentrate on ensuring that the appropriate employment

conditions are secured without the tensions that can arise under competitive bidding. We are willing to consider ways in which these arrangements might be facilitated, including changes to existing legislation on local authority companies where there are other means of securing the appropriate fiscal and proprietary safeguards. Where an authority is unable to consider partnership options, because current legislation requires a service to be carried out by the authority itself, then the Government is also prepared in principle to consider enabling them to do so using the provisions of the Deregulation and Contracting Out Act 1994 – if this were thought to be helpful in achieving best value and if appropriate safeguards to ensure propriety and fairness could be ensured by other means.

PERFORMANCE AND EFFICIENCY TARGETS

- 4.19 The review process is designed to ensure that demanding targets for efficiency and quality improvement are set. Best value requires sustained improvement. This does not mean that every service should be improved year on year in both quality and cost, although that should be the underlying objective. Allowance has to be made for local decisions about expenditure priorities and local judgements about the balance between the cost and quality of particular services, except where nationally set targets or minimum standards require otherwise. One way of building in sustained improvements would be to require authorities to set targets for the short (say one year) and longer (say five years) terms in respect of each of their selected performance indicators (including those prescribed centrally). The requirements could be specified in general terms or be prescribed in more detail, for example as:
- a. annual efficiency targets which would represent a year on year improvement;
 - b. service targets for the longer (five year) term – these might reflect the performance of the top 50% or top 25% of authorities at the time the targets are set; or require higher performing authorities to set their own targets for year on year improvement or for maintaining standards while reducing costs; and could be restricted to those indicators that are prescribed nationally;
 - c. annual service targets which are consistent with the longer term target.

The effect of either approach would be to require sustained efficiency improvements from all authorities, as well as improvements to service quality.

- 4.20 This approach to performance improvement would maintain local discretion about priorities. It would also provide an appropriate benchmark against which local people, auditors and inspectors could judge whether or not authorities were obtaining best value. This would still require a rounded judgement to be made, balancing performance across a range of indicators, and taking into account local circumstances. The Government would welcome views on its proposed approach to setting performance targets consistent with its commitment to achieve sustained improvements across all services.

LOCAL PERFORMANCE PLANS

- 4.21 The Government proposes that the targets for service improvement, and authorities' plans to achieve them, which flow from the reviews, are published annually in Local Performance Plans. These will act as the principal means by which authorities are held accountable for the quality and efficiency of their services, and would need to address each of the main services which authorities provide to the public. In particular the plans would:
- report on current performance including a comparison with the performance of other authorities, particularly against the indicators prescribed centrally;
 - identify forward targets on an annual and longer term basis;
 - comment on the means to achieve plans, including proposals for major capital projects and investments, together with procedural and purchasing changes designed to improve performance.
- 4.22 Local Performance Plans need to reflect an authority's corporate objectives, including that of sustainable development. They also need to avoid excessive detail if they are to perform the role that the Government expects of them: they could therefore be supplemented by plans specific to individual services, which might cover in more detail the broad approach set out in the Local Performance Plan. These could be used for more detailed consultation with specific groups of service users. For example, tenants would wish to be consulted on local authorities' detailed plans for housing management work. The choice of which services to address in specific service plans would be a matter for local decision, subject to any requirements imposed by Government in respect of the planning and performance of individual services such as housing, social services, libraries or education. Local Performance Plans might in this way provide a vehicle by which some of the specific performance plans on which the Government is currently consulting might be brought together.
- 4.23 In practice, Local Performance Plans and the planning and performance management systems already in place or proposed in many key service areas are likely to develop in tandem. Each of these provides an opportunity for authorities to advance specific performance improvements, typically on an annual basis. As and when the performance of the relevant services is reviewed fundamentally under the requirements of best value, new annual targets will need to be incorporated in specific service plans where they exist as well as in the Local Performance Plan. Typically therefore best value will be pursued through both the statutory framework and through any arrangements which are specific to individual services.
- 4.24 There are a number of specific arrangements for individual services which involve planning processes that are broadly comparable with the best value approach. For example, police authorities are currently required to produce local performance plans setting out proposals for policing their area, including the Home Secretary's national objectives for policing and local policing objectives, and any national targets for these national and local objectives. Similarly, as part of their housing investment programmes, local authorities are expected to consult all those with an interest in housing, particularly residents, and draw up housing strategies looking several years ahead which they review at regular intervals. These are supported by annual plans detailing how they will deliver housing services in their area.

The fit between existing arrangements and best value will need to be considered in the light of development work, including the experience of the pilot projects, and reflected in the specific Departmental initiatives referred to in paragraph 1.15.

- 4.25 Special arrangements may be needed in respect of those services for which resource management responsibility has been devolved to school governors. The Government does not envisage the duty of best value applying directly to individual schools since they have no tax raising powers, although it will apply to local education authorities. Individual schools are required by current statute to set performance targets, principally in respect of pupil attainment, and their performance is monitored and inspected. So is the performance of local education authorities in support of such schools, although the arrangements – principally the involvement of the Audit Commission alongside OFSTED – are somewhat different. The Government is anxious to avoid duplication of effort wherever possible, whilst at the same time preserving the principle that no area of expenditure for which an authority is responsible lies outside the scope of best value.
- 4.26 The Government takes the view that the processes specific to the education service should be formally part of the proposed fundamental performance review procedure. A statutory requirement for the publication of school performance targets is contained within the School Standards and Framework Bill and each LEA could include in its Local Performance Plan the performance targets of the schools it maintains. The performance of schools is already monitored in a number of ways, through reports of pupils' results in tests, assessments and examinations, reports of budget allocations to individual schools, and statutory inspections by OFSTED for example. Further development of these monitoring processes will take account of the best value framework as it evolves.
- 4.27 Processes specific to the education service could also be incorporated more directly into the best value framework for the work of LEAs in support of raising schools standards. Education Development Plans (proposed in the School Standards and Framework Bill) combined with inspections of LEAs by OFSTED and the Audit Commission (which have just begun under the 1997 Education Act) make this a realistic possibility. For example, authorities' own assessment of priorities for review might become a factor in determining where and when inspection effort is deployed. Because authorities will be fully aware, under the best value framework and the new education proposals, of their performance, the likelihood is that the priorities of the authority and OFSTED would not be very far apart. In the case of the non-statutory education services, such as adult education and the youth service, the best value arrangements would apply in the same way as they do for all other services.
- 4.28 **The Government would welcome comments on the performance management framework for best value as outlined in this chapter, and in particular whether:**
- i. **the system of fundamental performance reviews should be phased so as to ensure that 20/25% of local authorities' expenditure is covered annually (para 4.6);**
 - ii. **the extent to which the potential links between best value and quality initiatives such as The Charter Mark might be taken forward (para 4.9);**

- iii. the approach of prescribing a set of key service indicators which must be used in Local Performance Plans to assist rigorous comparison of performance strikes the right balance between national and local interests, and provides a possible way of rationalising the requirements placed on authorities to publish performance information (paras 4.12 and 4.13);
- iv. there are functions and services which currently cannot be contracted out, or provided through partnerships, but which might be in order to widen the delivery options available and facilitate partnerships (para 4.18);
- v. the approach to setting performance targets for efficiency and quality provides a realistic challenge for all authorities whilst sufficiently respecting local discretion, and in particular whether the benchmark for performance improvement might be that of the top 50% of authorities or that of the top 25% (para 4.19).

CHAPTER 5

Auditing performance: best value assessed

- 5.1 Local Performance Plans will be the principal vehicle by which local authorities report back on performance against targets, and therefore the means by which the public can assess whether best value has been obtained. Authorities will be otherwise free to decide their own in-year monitoring arrangements, consistent with their management and internal audit requirements. When services fail to meet the targets that have been set for them, it will be for authorities to identify these clearly in their Plans and to indicate what action they are taking to address them.

AUDIT AND INSPECTION

- 5.2 Even so, it is important that there is an external check on the reliability and accuracy of information in Local Performance Plans and an assurance that the Plans are consistent with the statutory framework. This would provide confidence in the Plans themselves and in the processes that underlie them. In the Government's view, any external check needs to be consistent with its determination to restore local accountability, and realistic about the resources that are available to local authorities and the specialist Inspectorates.
- 5.3 External auditors are already familiar with the working of local authorities and, through their value for money work, are involved in assessing some of the systems and processes that would be relevant in considering whether best value has been obtained. It is also important that they are able to carry out fully the basic checks on regularity and propriety on which the Government is to consult separately in the light of the Nolan Committee report on Standards of Conduct in Local Government. Auditing best value will, however, require new perspectives and a broad range of skills, so the contribution of the external audit service will need to be supplemented by that of others.
- 5.4 In those areas where there are specialist Inspectorates – education, fire, social services, benefit fraud and the police for example – there is growing co-operation between them, the Audit Commission and external auditors, as the Government seeks to drive up standards of performance. The Inspectorates bring a high degree of professional expertise to this task, and the Government wishes to build on that in designing the best value audit framework. It takes the view that the independent external checks required under best value should aim to combine the best of both audit work – with its emphasis on efficiency and propriety – and inspection – with its emphasis on quality of service. The Government believes that this applies to both the annual process of checking Local Performance Plans and the less frequent, but more demanding, checks which it envisages in support of the fundamental performance reviews. Although the two checks will cover different ground, both efficiency and quality issues will need to be considered in the round, and they will be designed to complement and reinforce each other.

- 5.5 The external check in support of performance reviews will, in the Government's view, take the form of a joint audit/inspection designed to confirm the robustness of the performance targets set by authorities in respect of future years. It will also consider the reasons advanced by authorities where there have been service failures, and the adequacy of the remedial action undertaken. These joint scrutinies could adopt a standardised approach in coming to an overall judgement which would help local people to hold their council accountable. One way of responding to the demand for joint audit/inspections would be to set up special task forces representing both specialist and lay interests: such task forces might be created once the general pattern of fundamental performance reviews was settled for the year, and disbanded once the reviews were completed. The Government recognises that achieving a close fit between the timetables for the fundamental performance reviews and for the external checks on the outcomes of those reviews in terms of performance targets for future years will not always be straightforward, especially where separate inspectorates are involved. But the intention is to coordinate these processes of review and audit/inspection in such a way that poor performance is tackled early and effectively, and in the round, using the skills and resources necessary for the task. Paragraph 4.27 explains how this might work in respect of OFSTED inspections of LEAs. The Government would welcome views as to how joint audit/inspection arrangements of this sort might be developed and strengthened, both where separate inspectorates already exist and where they do not, and the extent to which new institutional arrangements might facilitate such improvements.
- 5.6 In the case of the annual checks on Local Performance Plans, both quality and cost will also need to be addressed in assessing the extent to which performance targets have been met. At the same time, the external check will need to confirm the integrity of the key indicators and the extent to which the processes of corporate review, selection of areas for fundamental reviews, and consultation with the community had been complied with. This is an exercise requiring a variety of skills and experience and will therefore need to mirror the approach adopted for the joint audit/inspection scrutinies. The Government will wish to consider further how best to co-ordinate these regular annual scrutinies. There is a good case for giving this responsibility to the local external auditor. Alternatively, given the need for a new perspective and a broad range of skills, there is an equally strong case to be made for establishing the coordination role with a separate standards inspectorate working under the auspices of the Audit Commission and liaising with the external auditors and the specialist inspectors. The Government has an open mind on these issues, and would welcome comments.
- 5.7 The Government accepts that it will be important to ensure that the total costs of this and other audit and inspection work are contained at about the same level as current audit and inspection costs. This might be achieved were most existing value-for-money work undertaken by auditors, and the costs associated with it, redirected to the scrutiny of performance on best value. The Government will discuss these issues further with the Audit Commission, the Inspectorates and local government.

A POSSIBLE FRAMEWORK

- 5.8 An effective external audit depends upon there being a clear framework against which performance can be assessed. There should, wherever possible, be clear standards against which auditors can assess both plans and performance and clear mechanisms to encourage local action to remedy failures. It is a matter for government, at a local or national level, to establish these standards, not auditors.
- 5.9 One possibility would be to place on local authorities a statutory requirement to include in their annual Local Performance Plans a certification from their external auditor to the effect that:
- a. the performance and resource information within plans is accurate;
 - b. the plans are in accordance with the requirements of the framework including confirming that:
 - i. appropriate consultation had been undertaken;
 - ii. the results of this consultation had been properly considered by the authority; and
 - iii. targets had been set in accordance with statutory requirements and national standards where relevant;
 - c. plans are realistic, having regard to the resources available to the authority.
- 5.10 The accuracy of information in plans, and the assessment of the extent to which plans are in accordance with the statutory framework, are largely factual matters which can be established through audit review. The adequacy of consultation and the robustness of performance targets will contain, however, a degree of subjective judgement, and will in any case need to reflect the views of those consulted. Although the primary responsibility rests with authorities themselves to justify their response to consultation and the realism of their plans, it would be possible to require auditors to check that representations had been properly considered by the authority.
- 5.11 Subject to final decisions about the form of audit arrangements, the Government proposes to invite the Audit Commission to provide external audit guidance on the form certification might take and on the work that might be needed to underpin it. This will need to cover the relationship between the auditors and the specialist inspectorates. The Commission might also be invited to draft non-statutory guidance to local authorities on an internal system of controls and audit which would reduce the need for some external audit work.

- 5.12 The Government considers that the judgement about whether best value is being achieved is ultimately one for local people to make. Both the best value framework and the external scrutiny which is integral to this framework, will therefore need to support this accountability and, in particular, to ensure that appropriate information on performance is made available and is substantially accurate. Although it would be possible to require auditors or inspectors to express an opinion as to whether best value is being positively achieved, to do so may require a tighter specification of the standards against which auditors would assess local performance and practices than would be compatible with local accountability. External auditors or inspectors could, however, be required to make that information available to enable local people to come to a view as to whether best value had been obtained.
- 5.13 The external audit would also need to confirm that failure to perform to the targets which the authority had itself set had been properly identified within the plan. Where this was not the case, the auditor or inspector might have the responsibility to highlight the concerns in the audit certification or in a public interest report.
- 5.14 Certification might also include a view on whether the authority had taken appropriate steps to address individual failures in respect of particular targets, and the extent to which it had considered the full range of remedies available. It could also require a view on whether the proposed plans for remedial action were likely to deliver the necessary improvements. An integral part of this might be agreeing measurable targets for improvement.

IDENTIFYING FAILURE

- 5.15 Even a good authority which had set itself demanding targets could fail from time to time to achieve them, and in these circumstances the Government would expect the problems to be addressed and put right quickly without the need for external action. The Government has confidence that this will be the general experience under best value. In a few cases, however, the scale of failure in some authorities will be so serious that action is needed to secure improvements urgently. This would be the case for example, where the failure was in respect of national standards, and where local action had proved inadequate. The Government is therefore minded to provide for a 'fast-track' system of notification which would require the external auditor or inspector to notify the Secretary of State as soon as such failures become apparent so that further action can be considered.
- 5.16 At its simplest, failure to deliver performance in line with locally set targets may be construed as failure and might warrant referral to the appropriate Secretary of State. But local accountability would not be served if intervention were undertaken as a matter of course. Such intervention needs to be confined to those circumstances where key targets are missed and where local people are vulnerable as a result. The Government will consider issuing guidance as to where these circumstances could arise. In particular it might be necessary to distinguish between failures of substance – that is a shortfall of performance in relation to standards or targets – and failures of process – where procedures prescribed as necessary to best value were not followed, or options for improving performance were unreasonably neglected.

5.17 Failures of substance might be defined as including:

- unit costs which are persistently high in relation to other councils in similar circumstances, which cannot be explained in terms of higher quality or greater local need;
- deterioration in service standards against specified targets;
- failure to improve in relation to the performance of other councils;
- failure to achieve set local targets of performance (or a second failure);
- failure to meet specified national performance standards.

5.18 Failure of process might be defined as including:

- failure to consult, or to respond to consultation;
- failure to review an area of under-performance;
- failure to complete a review of all service provision over a five year cycle;
- unreasonable neglect of alternative options for provision when services are reviewed;
- failure to set sufficiently demanding standards.

5.19 Whilst the primary responsibility for addressing failures will be for the authority, there will clearly be circumstances in which the external auditor, the Audit Commission or the Inspectorates may all sensibly assist the authority in identifying the right way forward. In normal circumstances local authorities would be expected to consider all relevant sources of advice in resolving what may be very difficult service delivery problems. However, the statutory framework must also provide for the exceptional circumstances where an authority may not be willing to investigate the full range of possible solutions. So there may be a case for a statutory requirement on authorities to consult the Audit Commission on the action they intend to take to improve their performance. The Commission could draw on the work of the external auditor or Inspectorate as appropriate in their response.

5.20 There is an important potential role here for local government itself. Where an authority appears disinclined to take the necessary remedial action to improve performance, its inaction diminishes the standing of local government generally. The Government will consult the Local Government Association as to how local government might itself exercise the necessary influence over failing authorities so as to reduce the need for intervention.

5.21 The Government attaches great importance to the arrangements for audit which are proposed in this chapter. It would welcome views on these arrangements generally, and in particular on:

- i. the joint audit/inspection process, and ways in which the Audit Commission, external auditors and Inspectorates might work in tandem, or whether more far reaching changes are needed (paras 5.2-5.6);
- ii. the certification arrangements proposed in respect of Local Performance Plans (paras 5.8–5.10);
- iii. the need for a fast track notification system in case of service failure (para 5.15);
- iv. the approach of distinguishing between failures of substance and process (para 5.16);
- v. the requirement that authorities should consult the Audit Commission and, where appropriate, Inspectorates on their proposals to put right serious service failure (para 5.19);
- vi. the extent to which local government itself might exercise constructive influence on individual authorities whose performance is inadequate (para 5.20).

CHAPTER 6

Tackling performance failure and rewarding success

- 6.1 The audit and inspection arrangements which the Government envisages under best value are designed to identify possible under performance at an early stage, and to help local authorities address the likely causes without the need for sanctions and other forms of direct intervention. These arrangements are consistent with the framework for central-local relations which has been agreed between Ministers and the Local Government Association. In particular, the Government has undertaken that if it considers that a local authority (or a local authority service) is falling below an acceptable standard, it will work with the authority concerned to secure improvements. The Government has however reserved its right to exercise any powers under statute to intervene in cases of service failure, and will discuss with the LGA its policy for the use of those powers, including how best to facilitate a supportive role for the LGA.

FAILURE AND INTERVENTION

- 6.2 The Government is committed to providing for external intervention in the worst cases of failure by local authorities to obtain best value. Possible approaches include requiring the Audit Commission to take action or inviting the Local Government Association to take on this role. However, the Government is of the view that whilst the Audit Commission, the Inspectorates and the Local Government Association might all have an important role in advising on and resolving failures, it must be for the Government itself to consider and take action where appropriate. This is because a form of direct accountability is necessary where local democratic control may be an issue.
- 6.3 Intervention by the Secretary of State should be the exception rather than the rule. New powers will be needed to support flexible and constructive intervention. These would reserve direct intervention (in effect substituting the Secretary of State's judgement for that of the authority, or taking over management responsibilities from the authority) to those cases of serious failure, for example, where community safety was a significant issue, or where an authority persistently failed to secure best value. As the last chapter explains, there could be a layer of preliminary intervention, in effect asking an authority to reconsider its own decisions or to repeat its own procedures, taking account of external expertise and advice. New powers could be given to external auditors or inspectors to secure such changes, or they could rest with the appropriate Secretary of State.

- 6.4 A spectrum of reserve powers of intervention is justified, despite the general intention to secure local accountability, because:
- a. most local expenditure is at present financed from central taxation. Even with the reforms the Government proposes there will be a continuing substantial central contribution to local expenditure. The Government is accountable for this money to the taxpayer. Wilful or persistent neglect by a council of the duty to obtain best value, or failure to deliver plans for improvement, is a matter of legitimate interest to the Government;
 - b. although the Government will set a framework for improving and reinvigorating local democracy, the changes will take time to work through the electoral cycle. In the meantime, in some parts of the country, councils with a permanent large majority for one party or another, with very limited internal opposition, may persist. In other parts, there may be periods in which no single party is in overall control and strong and sustained political direction is absent;
 - c. central intervention should only be undertaken where intervention is judged to be in the best interests of local people, where the failure of the service in question is seriously affecting them, and where there is no immediate prospect of change or improvement being secured locally;
 - d. placing the ultimate power to intervene in the worst cases of failure with auditors, inspectorates or other independent body would give unelected bodies the power to direct elected bodies. It might also bring the independence and constructive relationship between such bodies and local government into question. Overturning the decisions of those with an elected mandate locally should therefore rest only with those with a higher elected mandate, ultimately Parliament itself. The Government will therefore seek specific powers to enable the Secretary of State to intervene in the absence of agreement.
- 6.5 Intervention should be designed to have a beneficial effect quickly. The powers to intervene will need to reflect both the nature and the cause of failure. There should also be sufficient flexibility for a graduated response which minimises the extent of intervention, consistent with understanding and tackling failure. Well directed intervention could mean less intervention overall.
- 6.6 In cases where the cause of failure is unclear, intervention might be in terms of a review or inquiry directed by the Secretary of State. This might be backed by powers of direction or a power to intervene where an authority was not prepared to take action of its own accord following such a review or inquiry. Primarily, however, intervention should be focused on positive action to put failures right. Where an authority had made limited use of competition or working with the private sector, intervention might include for example a requirement that services should be put out to competition, with or without an in-house bid. In cases of management failure, intervention might most usefully take the form of a requirement for an authority to accept external management help through advice or appointment, relating to specific services or to the core management of the council. In the last resort intervention might, however, lead to responsibilities being transferred to another authority or third party charged with carrying out the work on behalf of the failing authority, possibly for a specified period. Poor performance may also arise from a failure of

the democratic process to provide effective political representation and leadership. To this extent, the Government would expect to rely on the initiatives outlined in the consultation paper on local democracy.

- 6.7 Given the very wide range of approaches that might be adopted in cases of failure, the appropriate framework for intervention might be for the Secretary of State to take a power of direction and intervention which is not specific in terms of the form of action. Parliamentary scrutiny of such intervention might in these circumstances come through the affirmative procedure on secondary legislation with due allowance for fast track action and retrospective scrutiny in special cases.
- 6.8 In order to ensure that any powers of intervention are used only as a last resort, it is important that they do not confer financial advantage on an authority. This means that the authority might be required to continue to provide the budgeted level of financial support for the service that has been subject to intervention, especially where responsibilities have been transferred to a management team or third party.
- 6.9 The Government takes the view that, as far as possible, there should be objective triggers for action based on evidence that an authority has failed to achieve best value, or has failed to deliver acceptable standards of service, or has failed to take opportunities to reduce costs and increase quality. Intervention should be preceded by consultation with the authority and the inspector. It should occur only on the basis of an inspector's report and assessment. Where intervention concerns a major choice as to the nature of service provision, the Secretary of State might make arrangements to consult local people on the nature of any changes to be introduced, perhaps through a referendum or local opinion poll.

SUCCESS AND REWARDS

- 6.10 The Government's proposed approach to tackling service failure is consistent with its view that responsibility for the quality and cost of local services rests first and foremost with local authorities. Its proposals to enhance local democracy underline the importance it attaches to making this a reality. Effective, democratically elected local councils will not only pursue best value for the services for which they are responsible but are also more likely to obtain it. Where they do so, the Government is prepared to consider whether there should be some additional incentives available in recognition of their achievement.
- 6.11 The fact remains, however, that where councils are successful in delivering high quality services at a reasonable cost to local taxpayers, the likelihood is that their electoral mandate will be renewed. Re-election in recognition of performance is the ultimate reward in a democratic society. Establishing real local accountability for service performance will therefore bring its own electoral reward. It will also ensure that the need for central government to intervene in the affairs of local councils is proportionally reduced, not least in respect of service performance.

- 6.12 A successful best value authority will also benefit financially – principally because it will free scarce resources for other priorities. The incentive is the ability to use the resources saved from efficient service provision to either finance new or improved services or reduce the local tax burden. That is why best value will emphasise economy and efficiency as well as quality, and why the reviews of service performance need to be comprehensive and far reaching in exploring alternative means of financing and delivering local services.
- 6.13 The Government will play its part by ensuring that the financial support which it makes available to authorities year by year is distributed fairly and efficiently, and where possible gives authorities a clear indication of the resources likely to be available over more than one year. In some areas, for example in housing, transport and education, resources are allocated in part according to Ministers' assessment of the relative merits of the plans and performance of individual authorities, so that there is a precedent for rewarding success with additional resources. The Government will be consulting its proposals, including developments in the capital finance system, in additional consultation papers on local government finance to be published shortly.
- 6.14 When fully in place, the best value regime will give the Government greater confidence that resources are not being wasted and that services are being delivered efficiently and effectively. It will also provide reassurance that authorities are more accountable for service standards and the means by which they are delivered. The Government is committed to removing crude and universal capping, and will ensure that the new local government finance system enables it to step back from close involvement in local tax and spending decisions. However, the Government will retain reserve powers to limit excessive council tax increases. Where authorities are able to demonstrate best value consistently, the Government will be able to take that into account in the exercise of its reserve powers.
- 6.15 Similarly, the Government has undertaken to examine whether more might be done to encourage successful partnership arrangements between local authorities and the private and voluntary sectors. The Government gives high priority to the development of such partnerships and has moved quickly to implement the Bates' recommendations on private sector funding. The system for providing revenue support for PFI projects has been streamlined, so that authorities and the private sector will know much sooner what is available. The Treasury's new Taskforce, Government Departments and the 4Ps will all play an important role in assisting good projects. Revenue support will be available for £500 million of investment under contracts signed in 1998-99.
- 6.16 The Government has already announced that it is exploring ways in which new powers or dispensations from existing legislation might be given to authorities to enable them to provide local solutions to local problems, on condition that they, for example, obtain best value. Further details are given in the consultation paper on local democracy and community leadership.
- 6.17 Tackling failure and rewarding success in the delivery of local services in this way raises important questions which go outside the scope of this consultation paper alone. Other consultation papers on the modernisation of local government – on local democracy and finance – contain ideas and proposals which have a bearing on how best value can best be secured. The Government's plans will be refined in the light of responses to consultation and, brought together in the White Paper on local government later in the year.

- 6.18 Tackling failure and rewarding success are different sides of the same coin. The Government seeks a measured approach consistent with its intention to devolve responsibility for local services and secure local accountability, but to intervene decisively in exceptional cases where services fail. It welcomes a debate on these complex issues, and in particular:
- i. welcomes comments on the justification for intervention by the Secretary of State (para 6.4);
 - ii. invites comments on its approach to specifying the reserve powers available to the Secretary of State in the case of intervention, and as the end product of a graduated response (para 6.6);
 - iii. welcomes comments on the way in which the local government finance system might seek to recognise efficient and effective councils (paras 6.12 and 6.14);
 - iv. invites comments on a range of other possible ways by which best value success might be recognised, consistent with the objective of modernising local government (paras 6.16-6.17).

CHAPTER 7

Timing and legislation

- 7.1 The Government is committed to introduce primary legislation to establish the duty and framework of best value as soon as Parliamentary time permits. In the meantime, it will continue to explore ways in which the principles of best value can be put into effect through secondary legislation and guidance where this is consistent with the purposes of the extant primary legislation. It would also, in enacting new primary legislation that affects local government, seek to act in a manner consistent both with the principles of best value, and the framework described in this consultation paper.
- 7.2 The Government will also, in developing its proposals, take full account of the lessons arising from the programme of best value pilot projects: the arrangements for monitoring the programme are now in place and the consultants have a specific remit to report periodically on progress. Local authorities' participation in the process of disseminating these lessons for good practice will be important. So will the participation of the private sector and the trade unions. If best value is to achieve its objective of improving the quality and efficiency of local services in all areas, then it must be owned by and be seen to be owned by, those who are directly responsible for putting the policy into effect.
- 7.3 The Government will consider further the detailed form of the primary legislation in the light of consultation. It currently envisages framework legislation, the key elements of which are expected to include:
- a duty on local authorities to obtain best value for the public;
 - a provision to enable the appropriate Secretary of State to issue statutory guidance as to how authorities might comply with that duty;
 - a requirement that authorities should carry out periodic reviews of their services in accordance with statutory guidance;
 - a requirement that authorities should prepare and publish local performance plans, and powers to enable the Secretary of State to issue statutory guidance on the form, timing and content of such plans;
 - a requirement that authorities should publish information on their performance against specific indicators laid down by the Secretary of State or Audit Commission;
 - a requirement that authorities should consult local taxpayers, the local business community and service users at key stages, particularly in setting targets to improve service performance, and to take account of any representations they might receive in finalising their targets in the local performance plans;

- a requirement that authorities should report back on their performance against targets;
- a requirement on external auditors to provide an opinion on (a) whether plans and attendant procedures are consistent with the provisions of the legislation and statutory guidance and regulations; and (b) whether local authority reports on performance against plans are accurate;
- a requirement that external auditors or inspectors should notify the appropriate Secretary of State where an authority has failed to meet its performance targets;
- a provision for the Secretary of State to take appropriate action in the case of persistent failure.

7.4 The Government will also repeal the provisions for compulsory competitive tendering in line with the eventual timetable for introducing best value, which it would envisage coming into effect 12 months after the best value provisions reach the statute book.

7.5 **The Government wishes to lay down in primary legislation the key elements of a framework which will both challenge local authorities to achieve sustained improvements in efficiency, economy and effectiveness whilst encouraging local accountability and discretion as to how it is put into effect. It would welcome views as to:**

- i. whether the legislative framework is likely to achieve this balance;**
- ii. how far best value should be phased in following the enactment of the legislation; and whether in particular 12 months is considered sufficient (para 7.4).**

ANNEX

Finance and accounting issues

1. Demonstrating best value will require authorities to be aware of the full costs of individual services, monitor financial performance, and satisfy local people that they have met their targets as set out in the Local Performance Plan.
2. Finance and accounting arrangements under CCT, including the requirement for in-house teams to meet a specified financial objective and to keep trading accounts to demonstrate the achievement of these objectives, have brought a transparency and financial discipline to in-house operations. It has meant that failure to deliver performance in line with commitments has been highlighted and action taken. However, these arrangements have added complexity and bureaucracy and have drawn the Secretary of State into the detail of financial performance.
3. Ideally, the finance and accounting arrangements under best value should be more straightforward, whilst supporting local accountability and being consistent with authorities' fiduciary duty. The Government does not propose to undertake a financial monitoring role as it has under CCT legislation. Rather it will be a matter for the authority to satisfy itself, local people and its external auditor that its activities, and the financial performance of these activities, are consistent with achieving best value. This could be achieved by a system which focuses entirely on the total costs of providing services, including both front-line and support service costs that are attributable to the service in question.
4. Under a total costs approach, the costs of providing services would be addressed in terms of targets and performance reports. The focus of any finance and accounting arrangements might therefore be on ensuring as far as possible that costs are properly attributed to services. This would bring transparency to support service costs and would provide efficiency pressures on support services which are comparable, and complimentary to, the pressures on front line services. It will need to be done in any event if local authorities are to make proper comparisons between the costs of internally provided services and those that may be available from other sources.
5. There are however some central costs which are not attributable to front line services. These are known as the 'corporate and democratic core' and embrace functions such as corporate policy making, representation of local interests, support to elected bodies and public accountability. These would be grouped together as a single service and performance could then be planned and monitored for these services as if they were a front-line service, with external scrutiny based on a view of the proportion of total costs devoted to central services.
6. It would be possible to leave the proper attribution of support service costs as a matter for each individual authority and their auditor to agree. However, a consistent approach, based on best practice as, for example, described in CIPFA's guidance on accounting for central services and required by the statutory framework, would facilitate accurate comparison

between both services and authorities. The need for this approach will be greater if the Government's proposals for prescribed performance indicators are adopted.

7. One way which would ensure that the appropriate commercial disciplines are adopted as widely as possible would be to require support services to be provided under internal trading conditions, including hard charging to front-line service cost centres. To work properly all authorities would need to ensure that managers providing front-line services should have the discretion to purchase support services such as payroll or personnel from external sources. On the other hand, this does not fit well with the view that local authorities should be free to satisfy their statutory obligations as they see fit, providing this is consistent with their fiduciary duty.
8. The extent to which local authorities make full use of their assets and achieve returns on capital investments in service delivery is generally untested, except to the extent that current legislation requires in-house teams to provide a set rate of return on the capital which they employ. Existing performance measures are based on costs net of capital charges, and to this extent more efficient asset use would not be recognised under best value. This might suggest that the Government should continue to require authorities to meet specific financial objectives in relation to asset use.
9. On these and other accounting issues, the Government is minded to invite the Local Government Association to work with the Audit Commission and with accountancy and other professional groups to review existing local authority accountancy practice and recommend a best practice approach.
10. It is unlikely that a total costs approach could be introduced quickly without a significant loss of accountability, because it would take time to frame appropriate local arrangements. One approach might therefore be to work towards a total costs approach in the long term, with the existing financial and accounting framework rolled forward into new best value arrangements.