

Creating Strong, Safe and Prosperous Communities
Statutory Guidance:
Summary of Responses to Consultation

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Introduction and overview

This document provides a summary of the responses received as part of the consultation process for the draft statutory guidance *Creating Strong, Safe and Prosperous Communities*. This statutory guidance is central to the delivery of new settlement between central government, local government and citizens, as set out in *Strong and Prosperous Communities – The Local Government White Paper* and the *Local Government and Public Involvement in Health Act 2007*.

Consultation took place between 20 November 2007 and 12 February 2008 and a total of eight consultations questions were posed. These were as follows:

- Given that the new duty to involve leaves the decision about when and how to involve “representatives of local persons” to best value authorities (except police authorities), have we adequately explained the duty and what is required?
- Have you aligned or do you plan to align your LDF Core Strategy within the Sustainable Community Strategy? We are interested to understand what lessons you may have learned to inform the final guidance
- If you are working towards incorporating your housing strategy with your Sustainable Community Strategy what lessons have you learned which could inform the final guidance?
- In defining the duty to cooperate it is important to strike the right balance between using this as the basis to create more effective partnership working locally and not being too prescriptive regarding processes. Have we struck the right balance in the draft guidance?
- In defining the implications of ‘having regard to local improvement targets’ it is important to strike the right balance between using this as the basis to ensure clear accountability and a greater likelihood that these targets will be met without being too prescriptive regarding processes. Have we struck the right balance in the draft guidance?
- Does this section provide sufficient clarity on the trade-offs that best value authorities must make when seeking to provide both quality services to local communities and value for money to the taxpayer?
- We want to place service users and communities at the heart of commissioning. Do you believe that the guidance given, here, together with that on the new duty to involve in Section 2, work together to help achieve that ambition?
- The commitment to three year grant funding for partners in third and business sectors is important. Have we struck the right balance between using this guidance to strengthen that commitment and not being too prescriptive regarding process?

Summary of consultation respondents

A total of 167 responses were received. For the purpose of this analysis, the 167 responses received have been broken down into nine respondent categories. These are:

- Central government (departments and agencies)
- Local government (unitary, county, district and parish/town)
- Local strategic partnerships¹ (unitary, county and district)
- Partner authorities (including fire and rescue authorities, NHS Health Trusts)
- Other public sector
- Members of the public
- Third sector (including not-for-profit and charitable organisations)
- Business sector
- Others (unable to be classified)

A more detailed respondent summary is located below. A list of all respondents is included as Annex 1.

Respondent category	Number	As % of total responses
Local Government	77	46%
<i>Unitary</i>	28	17%
<i>County</i>	19	11%
<i>District</i>	24	14%
<i>Other (Parish and Town)</i>	6	4%
Local Strategic Partnerships¹	20	12%
<i>Unitary</i>	4	2%
<i>County</i>	4	2%
<i>District</i>	12	7%
Central Government	1	<1%
Partner Authorities	14	8%
Public Sector	7	4%
Third Sector	31	19%
Members of Public	5	3%
Business Sector	1	<1%
Other	11	7%
Total	167	100%

¹ A number of LSPs responded to the consultation in collaboration with their corresponding local authorities – in these circumstances the response was recorded as having been received from the LA.

Overview of main findings

The findings and conclusions outlined are based on an analysis of the 167 responses. On balance the guidance was positively received by the majority of respondents and is considered to be clear, concise and not overly prescriptive. The approach of leaving decision making on individual structures and processes to local discretion was particularly welcomed.

However, a number of discrete issues were raised regarding implementing the standards set out, in particular the perceived difficulty of implementing much of the guidance in two-tier areas. Anxiety over a lack of sufficient strategic and operational resources to meet the standards set out in the guidance was also cited. A further overarching concern was the need for further information to be provided on:

- Accountability for decision-making and delivery in a partnership context
- Monitoring and enforcement of the requirements set out in the statutory guidance

Other themes to emerge from consultation

Although the greater part of this report covers responses directed towards the eight consultation questions, other sections of the guidance also attracted a range of useful comments from respondents. Summaries of the main themes to have emerged from such responses have been included within the relevant sections of this document.

Government response

Overall reactions

In general we are encouraged by the tone of the responses. The draft statutory guidance has successfully explained how local authorities and their partners can:

- use the framework it sets out, including the new and existing duties described; engage their citizens; lead their communities; and find new and more effective ways to deliver high quality services with their partners.

On the whole, the draft guidance is seen to have achieved this in a helpful and concise way and without being unnecessarily prescriptive of process, thereby allowing local authorities and their partners the flexibility to respond to local circumstances.

Our approach to suggested changes

In determining how best to respond to the suggestions and concerns that were raised in consultation we have borne in mind the following principles:

- i. Our commitment to issuing light touch guidance as part of our wider commitment to greater devolution
- ii. 'Good practice' will vary by locality and is best developed and validated locally/regionally
- iii. Specifying 'minimum requirements' is likely to stifle innovation and may reduce ambition

Throughout this report we lay out clearly where we have responded to suggestions made through the consultation by altering the final version of the guidance. Where a suggestion has emerged from a number of respondents that we have chosen not to reflect in the final guidance, we have explained our reasoning for doing so.

Monitoring and enforcement

For all sections of the draft guidance, respondents asked how performance against expectations will be monitored, assessed and where necessary, enforced. These are matters that fall largely outside the scope of statutory guidance and are therefore not picked up directly in the final guidance. In most instances, it will fall to the Comprehensive Area Assessment (CAA) to pick up on the assessment of the duties and the detailed methodology for this is still being developed by the inspectorates. As the CAA methodology develops, we and the inspectorates will be able to separately provide more information about how it relates to the duties in the statutory guidance; the inspectorates aims to publish its second joint consultation on the detailed methodology of the CAA summer 2008.

Note on method of analysis

It is important to take account of the following points when interpreting the response summaries detailed in this report. The numbers reported in relation to the consultation questions should not be interpreted as a strict statistical analysis of responses. The questions were deliberately posed in an open way without a series of discrete closed options for answers. Although a detailed analysis of responses was primarily restricted to where a specific question had been asked, we have also sought to draw out common themes where respondents reacted to propositions and principles set out in the guidance more generally.

The quantitative analysis is designed to capture the general nature of opinions expressed by respondents in relation to the consultation, particularly areas of concern. This is because the analysis is based upon the grouping of responses to each consultation by common

themes and issues. Some respondents raised more than one key theme in their comments – in such cases a corresponding number of ‘responses’ were assigned to each respondent. Similarly, not all respondents commented or responded to every question raised as part of the consultation exercise.

Taken in combination these factors account for situations where ‘total responses’ for each question do not equate to the total number of respondents (167).

Section 1

Summary of responses to consultation

1.1 Governance and engagement

1.1.1 Responses to Question 1 – the duty to involve

Question 1 – Given that the new duty to involve leaves the decision about when and how to involve “representatives of local persons” to best value authorities (except police authorities), have we adequately explained the duty and what is required?

Response group	Number of responses	As % of total responses
Yes – the guidance adequately explains the duty and what is required	32	19%
Yes – the guidance adequately explains the duty and what is required, however definition and role of “representatives of local persons” requires clarification	37	22%
Yes – the guidance adequately explains the duty and what is required, however concerns over practical aspects associated with implementing the duty	65	38%
No – the guidance fails to adequately explain the duty and what is required, particularly in relation to aspects of its practical implementation and the role of “representatives of local persons”	37	22%
Total responses ²	171	100%

Overview of responses

The majority of respondents felt that the duty to involve was clearly explained and that the requirements were well balanced and appropriate. Leaving decisions to local discretion as to when and how to consult was particularly welcomed, as was the ‘light touch’ nature of the guidance that allows for flexibility in decision making.

² See ‘note on method of analysis’ within introduction and overview for explanation of total responses

The main reservation – expressed by a substantial number of respondents – was the need for greater clarification of the definition and role of “representatives of local persons”. Specifically, it was felt that the definition failed to emphasise the role of elected representatives in implementing the duty. A range of stakeholders including town and parish councils, third sector organisations and other non-statutory partners (eg. representatives of the young, elderly and ‘hard-to-reach’) also expressed concern that the duty would fail to adequately reflect community diversity.

Practical concerns associated with implementing the duty were also raised by a sizeable proportion of respondents. These focussed on the provision of sufficient resources and on how the outcomes of the duty were to be monitored and assessed.

A minor concern was that the extensive consultation processes required to properly implement the duty could contribute to the general feeling within the community of ‘consultation fatigue’.

Detailed responses

Yes – the guidance adequately explains the duty and what is required

Summary: Respondents felt that the guidance adequately explained the duty and what was required. Key principles of the duty are clear and concise and the definition of ‘representatives of local persons’ is appropriate.

“We recognise the huge benefits that can be achieved through effective community engagement, which results in services being delivered in a way that really does meet the needs of our communities who live, work and visit the area.”

– *partner authority*

“The guidance also makes it clear that the Duty to Involve shouldn’t be applied to individual consultation opportunities but requires a continual process of engagement in decision making in order to build an equal level of understanding and capacity within communities to be able to make an informed response to involvement opportunities.”

– *local authority (unitary)*

- The key principles of the duty are clear and concise and it is not overly prescriptive
- The ‘light-touch’ nature of the guidance leaves a sufficiently broad scope and flexibility for authorities to carry out the duty
- It ensures that communities and interest groups (eg third sector and hard-to-reach groups) are fully involved where appropriate

- Decisions as to when and how to effectively involve local people will depend upon local circumstances and it is therefore welcomed that such decisions are to be left to local discretion
- The guidance makes it clear that the duty requires a continual process of engagement in decision making
- The section outlining what success will look like is a useful benchmark
- The definition of representatives of local people is thorough and clear

Yes – the guidance adequately explains the duty and what is required, however definition and role of ‘representatives of local persons’ requires clarification

Summary: Although respondents felt that the guidance adequately explains the duty, the definition and role of “representatives of local persons” requires further clarification. This includes broadening the definition to explicitly include a wider range of community groups, thereby ensuring that the debate is not dominated by vocal interest groups.

“...[a] concern is that ‘representatives of local persons’ could be used to provide greater weight to some contributors over and above others, indeed inviting the vested interests of some groups over and above the general public interest.”

– *public sector organisation*

“The duty to involve covers the main points and seems to be adequately explained. It also seems to allow sufficient flexibility for local circumstances. The term ‘representatives of local persons’ is clearly defined in the consultation but there is a danger that this may be misconstrued to mean the elected or nominated member of the community, such as councillors.”

– *local authority (county)*

- The definition of “representatives of local persons” requires clarification to adequately reflect community diversity and ensure proper balance between sectional interest groups (ie avoidance of the disproportionate influence of vocal individuals/lobby groups which may not reflect the views of the wider community)
- Hesitation that “representatives of local persons” excludes local members and other ‘front-line’ employees – danger that these parties will feel as though their roles and responsibilities are being marginalised

- More work is needed to clarify the respective roles and responsibilities of LSPs and local authorities
- The guidance needs to ensure that community diversity is reflected (eg in the make-up of LSPs) by explicitly referencing these groups (eg youth, the elderly, cultural minorities)
- More guidance would be welcomed on managing the complex interrelationships resulting from involving such a wide range of community representatives

Yes – the guidance adequately explains the duty and what is required, however concern over practical implementation of the duty

Summary: Although respondents felt that the guidance adequately explains the duty, underlying concern that practical aspects associated with the duty's implementation require further explanation. This includes a perceived lack of resources with which to implement the duty.

Consultation, monitoring and measuring outcomes

“What seems to be missing from the guidance is sufficient clarity about how we will know whether we have statutorily fulfilled our obligations under the duty.”

– *local authority (unitary)*

“Clarity on how authorities will be expected to evidence the ‘duty to involve’ and demonstrate that the views being considered and acted upon are truly representative would be beneficial in the guidance...”

– *local authority (county)*

- It is not clear how the outcomes of the new duty will be assessed and, therefore, how authorities can determine if they are meeting their obligations or not
- Role of surveys in capturing local opinions – needs more explanation and guidance and concern that they may reduce likelihood of disadvantaged groups responding
- A general feeling of over-reliance on survey data – needs to be supplemented with more in-depth qualitative research that capture the views of the community
- There is a lack of minimum requirements within the guidance with which to establish a benchmark (eg does the provision of information alone constitute ‘involvement’?) – this could present a risk to the process
- Risk of consultation fatigue within the community
- There is little information on how the duty can be enforced if there is a breach, and to whom citizens and communities should complain to redress such a breach

Third sector and Compacts

“While the guidance sets out a definition of the ‘third sector’, there is no reference to the role of the existing third sector statutory consultation processes set out in the Compact, nor how the duty should accompany or enhance this role.”

– *local authority (unitary)*

- Concern that there is no reference to local compacts in the guidance
- The new duty to involve for local authorities should include targets for supporting the voluntary community sector (VCS), including women’s organisations
- Concern that ‘faith and equalities groups’ have been omitted from the definition of ‘the third sector’
- The role of the third sector in the process could be more concretely defined in the guidance without making it too prescriptive

Resourcing

“We are concerned that with this duty, as an authority the amount of public consultation we will do will increase and there is no information in the guidance as to where the resources for this increase will come from.”

– *local authority (district)*

- Concern that current resources available for implementing the duty to involve may be insufficient (eg lack of operational staff, costs involved in undertaking consultations, provision of information)
- Guidance needs to be more explicit in encouraging partners to adopt an integrated approach to implementing the duty (eg via coordination through the LSP). This would enable the development of a comprehensive community strategy that utilises the resources and expertise of partners and the third sector and minimises costs (eg. those incurred through the duplication of services)

Best practice

“We feel that the guidance succeeds to some extent in setting out an outline of what the duty to involve would entail and how it should be tackled by the local authority. However...we feel that the list of examples of different types of consultative exercises detailed is too narrow, and that without specific reference to the need to reach out to excluded groups, some older people could end up being left out.”

– *third sector organisation*

- Provide further examples of best practice by which to judge the success of implementing the duty
- Provide specific examples of what is and isn’t ‘appropriate’ engagement

- A supplement to this guidance containing good practice examples and specific tools or mechanisms should be prepared

No – the guidance fails to adequately explain the duty and what is required, particularly in relation to aspects of its practical implementation

Summary: Respondents felt that the duty and what is required was not sufficiently explained. Specific concerns largely match those covered in the previous section dealing with practical implementation of the duty (see above), particularly those relating to resourcing, and the definition and role of ‘representative of local persons’.

“The guidance would benefit from more specific guidance on how to achieve and ensure the new duty to involve”

– *local authority (unitary)*

- The guidance does not appear to expressly consider how local authorities and “representatives of local persons” should actually deliver the duty
- Whilst welcoming the non-prescriptive approach, the guidance is currently too broad brush
- Directly countering this view is the suggestion that the guidance is too prescriptive and does not allow for sufficient local discretion

Engagement, monitoring and measuring outcomes

“Although we can appreciate the fact that Government wants to leave it to local areas to determine exactly how to involve local people in decision making, we still feel that the document does not give enough guidance as to what level of engagement is appropriate in what instances.”

– *local authority (unitary)*

- Need to ensure transparency and meaningful engagement – current guidance is potentially tokenistic in this regard
- There is a need to clarify how achievement against the duty is to be measured through the CAA (these two documents need to complement each other)
- Advice lacking on how partnerships might assess and evaluate the extent to which consultation and involvement (engagement) have been ‘successful’ – perhaps through examples

- The guidance does not make it clear the extent to which local authorities are expected to 'devolve' decision making to local organisations (persons) and how this can be achieved – potential that some groups may be excluded from the process

Resourcing

- As previously stated, there is a general perception that there is a lack of available resources with which to properly implement the duty
- Insufficient training and support mechanisms are in place to support third sector organisations

Application of duty in two-tier areas

- Echoes many of the same concerns already expressed, mainly that there is potential for confusion and conflict between local authorities at different levels in two-tier areas due to confusion over their respective roles in implementing the duty

Definition and role of “representatives of local persons”

“We feel that the term “representatives of local persons” ...could easily be confused with the role of members, who we would describe as representatives of the local area.”

– *local authority (unitary)*

- Explicit mention should be made of the following organisations and individuals in order to encourage participation:
 - town and parish councils (in areas that they exist)
 - the third sector
 - community groups
 - individuals (including the young and elderly)
 - ‘hard-to-reach’ persons
- The role played by elected representatives in implementing the duty needs to receive more attention – the guidance would be better served if it supported and enhanced the role of locally elected councillors.
- Defining the third sector as a ‘representative of local persons’ potentially makes it a junior partner in all negotiations – it will be consulted but not necessarily involved in the process of decision making.
- The duty requires authorities to have a robust understanding of their communities and to use that understanding – this is already acted upon and well understood by most authorities and has been clearly set out in previous inspection regimes as important.

Government response

Although the majority of respondents were generally pleased with the treatment of the duty to involve, this was clearly not the view of all respondents. In general we remain of the view that setting out very detailed guidance is not the right role for central government and would inevitably stifle local creativity. More specifically, however, some issues were raised that have prompted us to make changes to the final guidance:

- **Strategic approach to consultation** – Many respondents identified as a concern the danger that the guidance might encourage uncoordinated consultation that could in turn create consultation fatigue. We have therefore strengthened the message to Best Value authorities of the need to take a strategic approach to consultation through the LSP (which is positioned elsewhere in the guidance as needing to have oversight of community engagement). Although the duty to involve only applies to best value authorities, many other partners will have similar reasons to consult and are therefore also encouraged to take a co-ordinated approach to engaging with their local community.
- **Representatives of local persons** – Respondents asked for more clarity on the definition of ‘representatives of local persons’ to acknowledge: the role of elected members; the need to reflect community diversity; and the need to ensure proper balance between interest groups. We have amended the guidance to make this definition as clear as possible. We have avoided listing all possible elements of such representatives as inevitably this will not be comprehensive and risks being unhelpfully prescriptive. However, we have made clear that representatives of local persons includes: children and young people as well as adults; includes diverse groups within the local authority’s area; the hard to reach or vulnerable groups; and should not be limited to those with the loudest voice. The role of elected members in leading this engagement has also been made more explicit.
- **Minimum Standards** – We have not set out minimum requirements for meeting the duty. Each authority will want to take its own decisions on how best to inform, consult and involve *representatives of local persons* as appropriate in the exercise of their functions, and this will rightly differ between authorities. Setting out minimum requirements would reduce the flexibility of authorities to accurately tailor their actions to their circumstance and could reduce levels of ambition. However, the section on what success will look like attempts to help authorities with this issue in a non-prescriptive manner. Many respondents asked for best practice guidance to help them make the most of the duty and we are currently working in partnership with the sector to develop this.

- **Responding to consultation** – Some respondents asked us to emphasise clearly the expectation that authorities respond to consultation ie feedback to consultees on the results of consultation and what is happening as a result. Again we have strengthened that message in the final guidance.
- **Compacts** – We have sought to make it clear that: the voluntary and community sector are covered by the term *representatives of local persons*; that the sector is made up of a range of different bodies; and that there will be a range of different ways to engage with those bodies including as part of any local compact.
- **Two-tier areas** – Some respondents asked for more clarity on how the duty will operate in areas with both county and district councils. Although we are of the view that the details of this must be agreed locally, we have made some changes that seek to clarify that the duty applies to all best value authorities and is therefore incumbent upon both district and county councils. We have encouraged district and county councils to work together to make efforts under the duty as effective as possible.

1.1.2 Other issues to emerge from consultation – governance and engagement *Local Strategic Partnerships*

Although the consultation question posed within this section of the guidance referred directly to the duty to involve, a large number of comments were directed towards the text on Local Strategic Partnerships (LSPs). Respondents were generally satisfied that the roles and responsibilities associated with LSPs had been effectively covered by the guidance. However a number of underlying issues did emerge:

- Clarification needed on LSPs in two-tier areas, including the scope to rationalise roles and responsibilities
- Some respondents called for additional guidance on governance, scrutiny, performance/risk management and conflict resolution
- Clarification sought over aspects of accountability in relation to LSPs including:
 - further explanation of the meaning of ‘democratic accountability’ in reference to the role of the LSP
 - on the use of resources by LSPs (including achieving ‘value for money’)
 - how LSPs will be assessed and who will be accountable if the LSP isn’t performing, highlighting the tension between the leading role expected from local authorities in the LSP and the LSP’s independence
 - ensuring transparency and accountability surrounding the selection of partners as members of the LSP
- LSPs may lack the status, capacity, skills, training, resources and structure necessary to meet the expectations outlined in the guidance (including delivering the LAA)

- The LSP ‘executive board’ and its role in the decision making process
- The requirement for the formal recognition of the LSP Chair by the local authority executive may imply a power of veto – clarification needed on this point
- Uncertainty over legal status of LSPs, especially given that they are non-statutory – raises the question of whether it is appropriate for LSPs to have a governance role
- Clear measures are needed locally to ensure the involvement of harder to reach or excluded community representatives within the LSP
- LSPs may lack the capacity, skills, resources and structure necessary to meet the expectations outlined in the guidance (including delivering the LAA)

Government response

The draft guidance builds on the messages about Local Strategic Partnerships in the 2006 *Local Government White Paper*: that they need to exercise a greater strategic leadership role; be more responsive to the needs of local citizens and communities; and that local authorities must play a leading role in the partnership. Feedback on how the draft guidance has achieved this has largely been favourable, but some responses have prompted us to refine the language used on the following issues:

- **Involving a variety of views in the deliberation of LSPs** – We have included a positive reference in the section on LSP governance principles to having a broader forum/sounding board as part of the wider LSP framework.
- **The need to secure value for money** – the guidance now includes an expectation that LSPs collectively keep in mind the need for the efficient use of resources in a locality as part of their broader role to oversee the planning and alignment of resources.
- **Transparency and the publishing of information** – there is now a greater expectation that LSPs and authorities make public the progress being made against LAA priorities alongside their narrower duty to publish the details of their LAA.

Accountability and performance management: In relation to the issues raised on accountability and untangling responsibility for delivery risks within an LSP, in part this task will be for local partnerships and their Government Office to determine, and in part this will be for the Comprehensive Area Assessment (CAA). As the CAA methodology develops, we and the inspectorates will be able to separately provide more information about how it relates to the duties in the statutory guidance. As we have already stated in this report that the inspectorates aim to publish their second joint consultation on the detailed methodology of the CAA summer 2008.

Capacity and skills: On the issue of the capability of LSPs to meet the undoubtedly challenging expectations set out in the guidance we acknowledge that the picture at present is rapidly improving but nevertheless mixed.

The National Improvement and Efficiency Strategy published by central and local government in December 2007 will have a central role to play in supporting councils, as leaders of place, working with their partners to deliver better public services and local outcomes. Its aim is to ensure that relevant, effective and co-ordinated action is taken to provide for:

- The implementation of excellent, innovative LAAs
- Effective action to prevent under performance, and deal with it quickly where it does occur
- Stronger local leadership of the improvement agenda
- Simpler arrangements for providing support

It places Regional Improvement & Efficiency Partnerships (RIEPs) at the heart of new delivery support arrangements. RIEPs – benefiting from an investment of £185m over the next three years – will have a key role in identifying local improvement priorities and helping councils and local partnerships to raise their performance across a range to get the right support at the right time, providing a strong, early first line of external support for localities, particularly where performance is at risk.

Decision making and the legal status of LSPs: Although some respondents queried this point, we are of the view that the guidance is clear that LSPs continue to be a voluntary partnership and that therefore any decisions it recommends need to be ratified by the individual agencies, organisations and individuals affected (see paras 2.2 to 2.3)

1.2 Establishing a vision for the area

1.2.1 Responses to Question 2 – aligning LDF Core Strategy and SCS

Question 2 – Have you aligned or do you plan to align your LDF Core Strategy within the Sustainable Community Strategy? We are interested to understand what lessons you may have learned to inform the final guidance.

Response group	Number of responses	As % of total responses
Yes – here is already alignment of the LDF Core Strategy within the SCS or this process is underway	26	33%
Yes – there is alignment of the LDF Core Strategy within the SCS or this process is underway, however ongoing challenges associated with factors such as incompatible timescales and implementation in two-tier areas	36	45%
Yes – plan to align LDF Core Strategy within the SCS, however need to wait for the completion/review of LDF Core Strategy, SCS and related plans and strategies before alignment can take place	9	11%
No – need to resolve issues such as the drafting of LDF Core Strategy and SCS in two-tier areas and incompatible timescales before the alignment of the can take place	9	11%
Total responses ³	80	100%

Overview of comments

Most respondents had either already aligned the LDF Core Strategy with the Sustainable Community Strategy, or were currently in the process of doing so. Alignment had been largely successful in these cases, or was expected to cause no concerns for those still undertaking alignment. Alignment was felt to be highly beneficial, allowing the views of all stakeholders to be heard, reducing the risk of ‘consultation fatigue’ and ensuring the cost-effective use of resources.

Alignment was predominantly hampered by incompatible timescales for drafting and reviewing the LDF Core Strategy and SCS, as well as the difficulty associated with the need to balance the requirements of the non-prescribed SCS with the highly prescribed LDF Core Strategy. A number of authorities were awaiting completion of the LDF Core Strategy, SCS or related plans and strategies (including sustainability assessments) before alignment could take place. Lining up strategies in two-tier areas was also considered to be problematic.

³ See ‘note on method of analysis’ within introduction and overview for explanation of total responses

Many of these concerns were also cited by those respondents that had yet to start the process of aligning the two strategies – specifically the need to resolve issues surrounding two-tier areas and incompatible timescales.

A number of important lessons were put forward. Alignment can be aided by the sharing of baseline information, needs analysis and technical studies and by integrating the consultation and drafting processes. Ongoing consultation between stakeholders and Local Authorities was also considered key to ensuring successful alignment.

Detailed responses

Yes – there is already alignment of the LDF Core Strategy within the SCS or this process is at the early planning stage

Summary: Respondents had already successfully aligned the two strategies, or were in the process of doing so. A number of practical lessons were learnt, primarily that the lining up of consultation and drafting processes was essential to effective alignment.

“... [the] Council has, from the outset, closely aligned its LDF Core Strategy with the vision, themes and outcomes of the Sustainable Community Strategy (SCS). It has not however attempted to subsume the Core Strategy within the SCS. There is value in keeping these strategic documents separate”

– local authority (district)

- Alignment will ensure that the views of local people, businesses and the third sector are considered alongside those of the public
- A ‘Sustainability Appraisal’ is a requirement of the Core Strategy and, as such, should also be an additional requirement of the SCS
- Care has been taken not to subsume the Core Strategy within the SCS in some authorities – there is value in keeping these strategic documents separate (eg the role of each strategy remains clear, maintains flexibility for strategy review)
- Option to undertake a ‘rolling’ review of SCS is welcomed

Practical lessons learnt

“Our experience is one of a series of consultations rather than ‘one off’ and the importance lies in identifying opportunities for the local authority and partners to integrate consultation processes and share findings and jointly develop a deeper understanding of both ‘people and place’.”

– local authority (unitary)

- Simultaneous consultation and drafting timescales on LDF Core Strategy and SCS improved alignment and minimised 'consultation fatigue' in respondents
- Liaison between 'planning' and 'policy' teams instigated at an early stage in the development process was key to achieving alignment
- A process of continuous engagement with LSPs (including integrating consultation and community engagement work) is essential to producing a successful and 'sound' LDF
- Alignment can be aided by the sharing of baseline information (joint evidence base or data sets), needs analysis and technical studies
- Establishing a shared 'vision' – a common top-line statement setting out the long-term vision for the region – that can be used across all strategies has proved useful for alignment purposes

Yes – there is alignment of the LDF Core Strategy within the SCS or this process is at the early planning stage, however ongoing challenges associated with factors such as incompatible timescales and implementation in two-tier areas

Summary: There is alignment of these strategies, however a number of factors have created ongoing challenges to successful alignment. Incompatible timescales and procedural requirements for drafting/reviewing were cited as the main challenge in achieving alignment. Practical lessons learnt are much the same as those already detailed (see above).

Incompatible timescales and procedural requirements

"The key issue is one of aligning the timescales required for the individual strategies with that of the Sustainable Community Strategy. The subsequent guidance should be flexible concerning the final timetables for approving these strategies and that of the Sustainable Community Strategy."

– local authority (unitary)

"It is difficult to develop the LDF and the SCS simultaneously, as both will be responding to a number of internal and external factors. However, the development of both documents needs to take account of the most recent publication or draft of the complementary document, and to ensure that information is shared to inform the development of both documents."

– local authority (unitary)

- Guidance needs to be sufficiently flexible to take account of the fact that LDF Core Strategy and SCS work within differing timescales (for drafting and review) and have distinct procedural requirements – potentially restricting the ability to align
- Difficulty in balancing the requirements of the non-prescribed SCS with the highly prescribed and strictly-timetabled LDF Core Strategy
- The LDF must be compliant with the ‘annual monitoring report’, making its alignment with the SCS potentially problematic

Role of LDF and SCS

- The LDF should have a more central role in facilitating the spatial delivery of various plans, strategies and investment programmes
- The Core Strategy is fundamental to the delivery of the spatial aspects, ambitions and vision of the SCS, including the priorities and aspirations of partner organisations

Resourcing

“The LDF Core Strategy is one of the ways of seeking to implement the Community Plan, but there have been some difficulties in securing real engagement from all of the parties on the LSP due to its small size and the limited resources of those involved.”

– *local authority (district)*

- Need to establish a firm ‘evidence base’ to help facilitate the alignment of strategies

Alignment with other strategies

- Consideration needs to be given to potential alignment with other strategies, especially Local Area Agreements (LAA), as well as more specific strategies eg those aimed at young people, crime reduction, housing, homelessness etc.
- LDFs should also take into account overarching sustainable development principles and standards contained within emerging Regional Spatial Strategy (RSS)

Legal issues

- Until the SCS has as much statutory weight as the Core Strategy aligning these two key strategies is likely to remain difficult
- The Core Strategy will be subject to external scrutiny by the Planning Inspectorate, potentially constraining its policies and priorities – thereby limiting the development of the SCS as the overarching local strategy

Two-tier areas

“The county wide SCS is endeavouring to align/incorporate both county and district LDF’s but the proposed statutory guidance does not assist in making this happen effectively. The final guidance should give consistent and positive advice to districts to join up LDF’s and to relate them to a single county/district SMS.”

– *local authority (county)*

- The reorganisation of government in some two-tier areas requires the development of a new SCS – as a consequence, some delays are likely
- Alignment within two-tier areas is problematic because of the hierarchical separation – which LDF Core Strategy and SCS takes precedent?
- The guidance does not address cross county boundary issues of shared concern and how these should be addressed

Yes – plan to align LDF Core Strategy within the SCS, however need to wait for the completion/review of LDF Core Strategy, SCS and related plans and strategies before alignment can take place

Summary: Respondents plan to align strategies, however are waiting on either their completion or the next round of reviewing before this can take place.

“...[the] core strategy is not complete. However, we are developing links between the LDF and community strategy, for example setting out how the LDF can help deliver the aims for each theme of the strategy.”

– *local authority (district)*

- Unable to align strategies until either a joint LDF Core Strategy or SCS is prepared
- Plan to use the next round of strategy review as the opportunity to undertake alignment

No – need to resolve issues such as the drafting of strategies in two-tier areas and incompatible timescales before the alignment of the LDF Core Strategy within the SCS can take place

Summary: The issue of achieving alignment in two-tier areas is seen as a significant challenge in attempting to line up the two strategies, echoing the concerns raised by respondents that have already been covered (see above)

“...As guidance continues to recommend an alignment of LDFs with SCSs it will again perpetuate the need to continue with a dual approach. Final guidance should be stronger in moving towards a single approach with further encouragement to districts to join up LDFs and relate them to the SCS for the county.”

– local authority (county)

- Having a single, jointly prepared SCS in two-tier areas is an essential precursor to alignment with Core Strategy – otherwise could lead to a host of separate district SCSs linking to their own Core Strategies, creating difficulties for county councils

Government response

We are encouraged to note that the majority of areas have either aligned these two key strategies or are in the process of doing so. As such we have made minimal changes to the text of the guidance. There are, however, a number of developments outside of the scope of the statutory guidance it is worth highlighting:

Good practice: Respondents to the consultation highlighted a number of aspects of good practice in terms of successful alignment. These will feed into a good practice guide being developed with partners.

SCI: The Government still intends to remove the legal requirement for the LDF's statement of Community Involvement to be independently examined.

1.2.2 Responses to Supplementary Question – incorporating housing strategy with SCS

Supplementary Question – If you are working towards incorporating your housing strategy with your Sustainable Community Strategy, what lessons have you learned which could inform the final guidance?

Response group	Number of responses	As % of total responses
Yes – have aligned elements of the housing strategy with the SCS or such a process is underway, however the two are to remain separate documents	14	58%
No – awaiting review or development of either the housing strategy or SCS to see if incorporation is feasible	5	21%
No – no plan to incorporate the housing strategy within the SCS	5	21%
Total responses ⁴	24	100%

Overview of responses

A limited number of responses were received in relation to this question, most likely due to its specialised nature. None of the respondents planned to entirely incorporate their housing strategy with the SCS. A substantial proportion had aligned (or planned to) select elements of the housing strategy with the SCS, however the two strategies are to remain discrete documents.

The primary reason given for maintaining this separation was that housing issues are too complex to be captured in a brief section within the SCS. A degree of concern was also expressed regarding practical restrictions on either incorporating or aligning the two strategies. These included incompatible timescales, ability to undertake alignment/incorporation in two-tier areas and that neither the SCS or housing strategy had yet to be developed.

A small proportion of respondents planned to reassess the ability to integrate the two strategies during the next round of reviews.

⁴ See 'note on method of analysis' within introduction and overview for explanation of total responses

Detailed responses

Yes – have aligned elements of the housing strategy with the SCS or such a process is underway, however the two are to remain separate documents

Summary: Although the two strategies are to remain separate, certain elements are in alignment or are in the process of being aligned.

“...we have been fortunate that the review of our SCS has coincided with the review of our Housing Strategy...From the beginning we have fully integrated the two strategy development processes and there has been a partnership approach for each.”

– local authority (unitary)

“We are now working towards building a thematic housing partnership which links to our LSP so as to be better able to play a lead role in incorporating our housing strategy into our SCS.”

– local authority (unitary)

- A key lesson was to develop the housing strategy in parallel with the LDF Core Strategy and the SCS – each strategy shares a common ‘top line vision statement’ ensuring consistency

No – awaiting review or development of either the housing strategy or SCS to see if incorporation is feasible

Summary: Awaiting the development or the next round of review of strategies before deciding whether incorporation is feasible.

“There is a Regional Supported Housing Strategy in development...The degree to which this will influence the Sustainable Community Strategy remains to be seen”

– partner authority

- The housing strategy and/or SCS is due to be reviewed or is still in development – the feasibility or otherwise of incorporating the two strategies can only be judged once this is complete
- More guidance is needed on how this process (integrating SCS and housing strategies) can be accommodated in two-tier areas

No – have not been working towards incorporating the housing strategy within the SCS

Summary: No attempt has been made to incorporate housing strategy with the SCS.

“At present we have not been working towards incorporating our Housing Strategy within our Sustainable Community Strategy.”

– *local authority (unitary)*

“No, due to the wide range of other players and the need to work cross Authority to assess housing markets, this has not been possible at this point in time.”

– *local strategic partnership (district)*

Government response

The primary reason given for maintaining separation of the two strategies was that housing issues are too complex to be captured in a brief section within the Sustainable Community Strategy. We have taken this argument on board and have amended the guidance to provide greater flexibility to local authorities as to how and where they set out their strategic approach to housing.

1.2.3 Other issues to emerge from consultation – establishing a vision for the area

Sustainable Community Strategy

Questions within this section of the guidance dealt with aspects of the alignment of the Sustainable Community Strategy (SCS) with the LDF Core Strategy and housing strategy. Although the overwhelming majority of respondents felt that the guidance sufficiently explained these concepts, a small number requested the clarification of certain aspects of the SCS itself. The key changes suggested are outlined below:

- Concern over the proposed requirement for an annual review of the SCS to bring it into line with the LAA. This was on the grounds that this requirement is counter to the long-term strategic intentions of the SCS and is potentially unduly burdensome
- In addition to requiring local authorities to have regard to the Government’s sustainable development strategy, the guidance could be strengthened by references to the importance of the regional sustainability framework and to the four priorities identified in the UK Sustainable Development Strategy (SDS)
- The concept of ‘sustainable’ is still poorly understood – more assistance is required to assist local authorities, partners and communities to understand this concept

Government response

Respondents were largely happy with the description of the Sustainable Community Strategy's (SCS) role and position in relation to the other remaining statutory plans. However, a number of suggestions were made which have been reflected in the final text:

- **Removing the requirement for an annual review of the SCS** – the Government accepts that given the long-term focus of the SCS and the scale of the task of reviewing it, that an annual requirement to review is disproportionate. Instead the guidance sets an expectation that the LSP will ensure their shared evidence-base is up-to-date – particularly with a view to informing LAA negotiations.
- **The relationship between the SCS and the other statutory plans** – We have sought to ensure that the text reflects the latest legal/policy position when published.

1.3 Agreeing priorities for an area

1.3.1 Issues to arise from consultation – Local Area Agreements

Although the consultation covered questions on the duty to co-operate and the duty to have regard to Local Area Agreement (LAA) targets, a number of comments were received in relation to the wider preparation of LAAs (section 4 of the statutory guidance), including:

- The approval of the LAA should not require a full council decision as this is overly prescriptive. Instead, responsibility between full council and the executive for approval should be left to local discretion
- Confusion over preparation of LAAs in two-tier areas with insufficient detail on how the process should work and the role of the district LSP
- The guidance proposes the adoption of the LAA by county councils on 'behalf of LSPs' in two-tier areas despite the fact that they do not have the powers to do so
- A clearer process for agreeing priorities needs to be provided, including detail on accountability, enforcement, monitoring and complaints procedures
- Concern that the three year improvement targets of the LAA are too short to address the longer term priorities of the SCS
- The mix of indicators that form the foundation of the LAA do not sufficiently address areas of specific concern (eg insufficient focus on environment and sustainability)
- Concern that the current model of LAA focusses too much on national priorities at the cost of the local element
- Guidance is limited in relation to the future role of Government Offices and inspectorates – they have an important role in supporting the negotiation process and brokering discussions with central Government

Government response

Chapter 4 of the draft statutory guidance dealt with the processes a responsible local authority needed to go through in order to prepare, sign off, publish and, where relevant, revise a Local Area Agreement. Whilst no specific questions were asked in the consultation document about chapter 4, respondents did identify a number of issues which we have addressed in the final guidance, including:

- **Council sign off** – In the draft statutory guidance we suggested that responsible local authorities should have to obtain full council approval before submitting their draft LAA. Respondents to the consultation argued persuasively that decisions as to who should be responsible for functions relating to LAAs should instead be a matter left to local discretion. We have changed the regulations and guidance accordingly. Allowing for local discretion regarding who signs off an LAA will still give full council a say in the LAA sign off if they choose, whilst allowing them to delegate this to their executive if that is their preference. This discretion has also been provided on the basis that LAAs are the delivery agreement for the long term objectives identified in the Sustainable Community Strategy and, as such, the objectives in the LAA will already have been subject to full council sign off.
- **Two-tier issues** – In relation to the issue of how LAAs are negotiated in areas with districts and counties, we attempted to strike a balance between being clear that districts have a vital role, whilst not being overly prescriptive about how they exercise it. Relationships are more complex in these areas and the guidance needs to be flexible enough to allow local partners to adopt processes that suit them. As such, we have not made substantial changes to the guidance to explain how the process should work, but have made some alterations to lend greater emphasis to the role districts should play in the LAA negotiation.
- **Adopting targets on behalf of others** – A number of respondents asked for a revision of the text which had suggested that a county council could formally adopt targets on behalf of the LSP. We agree that the original text did not properly describe the extent of the power for county councils to adopt targets and the suggestion has consequently been omitted from the final version of the guidance.

The broader LAA process and indicator set: dealing with comments on the implementation of this round of LAAs including, for example, the precise make-up of the National Indicator Set are outside the scope of this statutory guidance. However any relevant suggestions will feed into how the model is refined over time including any non-statutory information provided summer/autumn 2008 on the annual review process.

1.4 Agreeing the priority outcomes for an area – the role of local partners

1.4.1 Responses to Question 3 – duty to cooperate

Question 3 – In defining the duty to cooperate it is important to strike the right balance between using this as the basis to create more effective partnership working locally and not being too prescriptive regarding processes. Have we struck the right balance in the draft guidance?

Response group	Number of responses	As % of total responses
Yes – the guidance strikes the right balance between using the ‘duty to cooperate’ as the basis to create more effective partnership working locally and is not overly prescriptive	34	26%
Yes – the guidance strikes the right balance, however further guidance needed on the role and responsibilities of partners, local authorities and LSPs in implementing the duty to cooperate	31	24%
Yes – the guidance strikes the right balance, however more detail is required on practical implementation of the duty to cooperate	45	35%
No – the guidance does not strike the right balance and the role and responsibilities of local authorities and partners needs to be clarified	20	15%
Total responses ⁵	130	100%

Overview of responses

The majority view was that the correct balance had been struck between using the duty to cooperate as the basis for more effective partnership working locally, whilst allowing processes to remain largely non-prescriptive. Guidance was felt to provide sufficient flexibility to enable it to respond to local circumstances. The role of the LSP was clearly defined, and the duty will help to minimise barriers to access to services by the wider community.

⁵ See ‘note on method of analysis’ within introduction and overview for explanation of total responses

Despite the generally positive response to the duty to cooperate, a number of concerns were expressed by a large number of respondents regarding the practical implementation of the duty. These included apprehension over the availability of sufficient resources, lack of enforcement measures (specifically in relation to partners that fail to cooperate) and the application of the duty in two-tier areas.

A minority of respondents felt that the definition of 'cooperation' within the guidance needed clarification and the expectations being placed on partners to be more explicit.

Of the small number of respondents who did not feel that the right balance had been struck, a lack of clarity on the role and responsibilities of partner organisations and the LSP was the most commonly cited reason. Conversely other respondents felt that the guidance was overly-prescriptive and may potentially limit partnership development.

Detailed responses

Yes – the guidance strikes the right balance between using the 'duty to cooperate' as the basis to create more effective partnership working locally and is not overly prescriptive

Summary: Respondents felt that the correct balance had been achieved in the guidance. The non-prescriptive nature of the guidance also allows for flexibility in local decision making.

"The right balance appears to have been struck in the guidance between using it [the duty to cooperate] to promote partnership working / partnership development without being prescriptive about process"

– *third sector organisation*

- The duty to cooperate is clearly explained and the standards are not overly prescriptive
- The guidance is flexible enough to respond to local circumstances
- Emphasis on partner cooperation being agreed at the outset of the process and allowing authorities to decide on appropriate level of cooperation is welcomed
- Role of the LSP framework as the vehicle to achieve the duty is clearly defined
- Welcomed approach that '*cooperation should be a continuous process of planned engagement*'
- Duty to cooperate will provide a firm basis for minimising barriers to access to services by citizens

- Although the duty also rightly applies to LAAs, the possibility to extend this to other strategies such as SCS should be explored

Yes – the guidance strikes the right balance, however further guidance needed on the role and responsibilities of partners, local authorities and LSPs in implementing the duty to cooperate

Summary: Although respondents agree that the guidance strikes the right balance, there are some underlying concerns. The role and responsibilities of partners (both statutory and non-statutory), and local authorities required clarification, as does the means by which ‘cooperation’ can be facilitated. Promoting the involvement of non-statutory partners in the LAA process was seen as being of particular importance. In addition, the overarching role of the LSP itself would benefit from further clarification.

Role and responsibilities of partners, local authorities and LSPs

“The draft guidance strikes the right balance between creating effective partnerships without being over-prescriptive. However... it is unlikely that a ‘one size fits all’ solution would be realistic as the internal dynamics of partnerships working varies across councils and within their own thematic partnerships.”

– local authority (unitary)

“The guidance highlights the need for cooperation in assessing local priorities but doesn’t acknowledge this also needs mechanisms for resolving conflict... One of the fundamental points that is missing from the guidance is clarity on the expectations of role and responsibilities between authorities and other partner organisations.”

– local authority (county)

- Whilst it is important to avoid over-prescription, the guidance should go further in defining a tighter definition of cooperation and the expectations and responsibilities being placed on partners
- Clarification that such ‘cooperation’ is best undertaken via the LSP framework
- Concern over the accountability of local authorities for things they are not responsible for – danger of the local authority being perceived as ‘policing’ partners
- No guidance is provided on how to make cooperation between partners ‘effective’, including best practice advice
- Partnership processes need to be reviewed locally to achieve a better fit with ‘cross-cutting themes’ and take account of local circumstances

- May be helpful to focus on how partnerships contribute to outcomes rather than on processes

Incentives to encourage cooperation

“Whilst an approach which ‘compels’ partners to co-operate would not be supported, an approach which ‘incentivises’ co-operation...has much merit”

– local authority (county)

- More guidance needed in relation to encouraging cooperation within partnerships, perhaps by emphasising the benefits of cooperation in terms of improved outcomes for all
- The ‘spirit’ of partnerships needs to be encouraged – not necessarily by the use of financial drivers
- Leaving partner cooperation to local circumstances does not necessarily sit comfortably within a ‘duty’ to cooperate

Yes – the guidance strikes the right balance, however more detail is required on practical aspects of implementing the duty to cooperate

Summary: Respondents generally felt that the right balance has been struck, however expressed concern over a range of practical considerations. These include a perceived lack of available resources, a lack of explicit enforcement measures (and associated penalties) and unresolved issues surrounding the implementation of the duty in two-tier areas.

Accountability, enforcement measures and penalties for failure to cooperate

“There...needs to be some recourse or accountability for failure to co-operate where goodwill and encouragement fails to achieve co-operation...”

– local strategic partnership (district)

“Whilst the Council welcome the opportunity to tailor partner involvement and cooperation to local circumstances...The duty does not appear to be matched by any sanctions or penalties for non-cooperation nor does it recognise explicitly the different strategic, operational and financial constraints for the various partner organisations.”

– local authority (unitary)

- A call for the strengthening of the role of local authority scrutiny – plus a concern that there will be a time-lag between the coordination of inspection processes and the anticipation of the new duty to cooperate

Allocation of operational, financial and strategic resources

“Allocation of resources will be critical – with most partner organisations working within an environment of increased efficiency and without sufficient scope/flex within their respective systems to significantly realign mainstream resources, it is likely that the allocation of additional resources will dictate what can be achieved by individual partners and the partnership as a whole”

– local authority (unitary)

- The lack of specific guidance in relation to the allocation of resources creates potential difficulties in delivering against targets and outcomes

Application of the duty to cooperate in two-tier areas

“For two tier areas there needs to be more than a duty to cooperate between County and District/Boroughs. Local Government partners need to be fully engaged with each other over issues such as LSPs, LAAs and Sustainable Community Strategies”

– local authority (district)

- Guidance is lacking in two-tier areas – for instance, there is a need for county and district LSPs to operate within a single accountability and governance framework
- The duty to cooperate should be extended to include the relationship between district councils and other named local partners

No – the guidance does not strike the right balance and the role and responsibilities of local authorities and partners needs to be clarified

Summary: A minority of respondents felt that the guidance was over-prescriptive, particularly in terms of encouraging engagement with partners. Many of the specific concerns mirror those already raised in the sections relating to the roles and responsibilities of partners, local authorities and LSPs (see above).

General comments

“The guidance is too prescriptive on how we engage duty to cooperate partners. There is no allowance for trust and a shared will to co-operate. This needs lighter touch guidance”

– local authority (unitary)

- Lack of reference to the concept of ‘place shaping’ – therefore, insufficient emphasis on the role of local authorities as community leaders

Role and responsibilities of partners, local authorities and LSPs

“We feel that the guidance again stops somewhat short from outlining what would in effect clearly support LSPs and partners to work better together. Would like to have seen the guidance go a step further (and in effect formalising what it is proposing) and stating that all LSPs be required to publish a schedule of engagement (outlining who will be engaged, when, how, within what timescales etc)...”

– *local authority (unitary)*

- The guidance is unclear with regards to how individual named partner organisations should be represented – requirement for continual process of planned engagement is perhaps overly prescriptive; in some circumstances perhaps better to allow partners to establish a more general level of engagement
- The guidance needs to be more explicit in describing who holds the power in terms of responsibility for making decisions
- Request that a number of organisations are added to the list of ‘partner authorities’, including (but not necessarily limited to): Homes and Communities Agency (once established); Connexions service; schools; parish councils; housing associations; regional health authorities; and police authorities.

Government response

The duty to co-operate sends a strong signal about the importance of effective cross-agency working to agree a single set of priorities for local areas. Consultation responses relating to the duty to co-operate were broadly supportive, with a strong sense that the draft statutory guidance struck a good balance in helpfully describing the duty, and setting strategic expectations about the role of the LSP, whilst leaving room for local partners to resolve the finer details. Some issues that require further clarification were raised, including:

- **Definition of cooperation** – A number of respondents asked for more detail on roles and responsibilities for co-operation between local authorities and partners. We consider the guidance sets an appropriate framework, whilst leaving room for local flexibility and so have not made any substantial changes. In a couple of cases, respondents asked for less detail on the process, so that co-operation could take place outside the LSP framework. However, we wish to remain clear that co-operation should take place through the LSP and we consider that the current text already strikes the right balance.
- **Failure to cooperate** – A number of respondents asked how co-operation will be monitored and enforced and we have subsequently added some text about the mediating role of LSPs and the Government Office in any disputes at

paragraph 4.9. However, as stated previously the key mechanism for monitoring the effectiveness of local delivery including how well the standards set in this guidance are being met will be the Comprehensive Area Assessment.

- **Two tier areas** – Some respondents asked for more guidance on how the duty to cooperate will operate in two tier areas. However, key stakeholders including the LGA agree with us that the guidance should not be overly prescriptive in this respect, but should continue to emphasise that the detail of how partners co-operate through LSPs (whether at district or county level) should remain a matter for local agreement.

Delivering priorities: the implications for individual organisations for their service planning and resource allocation is captured under the duty to have regard to targets that relate to them in the exercise of their functions

1.4.2 Other issues to emerge from consultation – agreeing the priority outcomes for an area

The role of non-statutory partners

The consultation question posed within this section of the guidance related to the duty to cooperate. The remainder of the section dealt with the role of non-statutory partners and determining which targets relate to each partner, areas that attracted a small number of comments from respondents.

- Concern that the involvement of non-statutory partners is at the behest of statutory bodies (predominately local authorities), thereby appearing to be counter to ‘spirit’ of the duty to cooperate – there is a need to ensure proper balance of representation in negotiating and agreeing targets
- Reference therefore needs to be made to the ways in which those bodies which are not subject to the statutory duty to cooperate should be involved in the LSP framework. A couple of respondents suggested that the local authority or LSP should publish a schedule of engagement to provide non-statutory partners with a timely opportunity to be involved and that there should be routes of redress for those who are excluded
- More detailed guidance is required on managing conflicts of interest (eg. situation where non-statutory partner are also potential service providers) and accountability
- Concern over the classification of parish and town councils as non-statutory partners
- Little reference was made to the role of elected members in the LAA process

Government response

The duty to cooperate in agreeing targets for LAAs is accompanied by a sister duty to consult, which ensures that responsible local authorities involve interested groups beyond

the list of statutory partners in the agreement of LAA targets. Some respondents asked us to reinforce the importance of this consultation in the final guidance and we have subsequently made some changes in chapter 4, including:

- **Importance of consulting** – We have made some changes to make greater reference to the importance of consulting parishes and elected members
- **Timely opportunity** – We have emphasised the need to provide timely opportunity for consultees to be involved in the setting of priorities
- **Role of the LSP** – We have made some changes to emphasise the role of the LSP in coordinating consultation and mediating disagreements (and strengthened the cross-references between that section of the guidance and the section relating to the Duty to Involve)

Taken together, these changes reinforce the message that non-statutory partners should be properly consulted without being overly prescriptive in an area in which responsible local authorities are given clear discretion by the legislation.

1.5 Delivering Priorities

1.5.1 Responses to Question 4 – having regard to local improvement targets

Question 4 – In defining the implications of ‘having regard to local improvement targets’ it is important to strike the right balance between using this as the basis to ensure clear accountability and a greater likelihood that these targets will be met without being too prescriptive regarding processes. Have we struck the right balance in the draft guidance?

Response group	Number of responses	As % of total responses
Yes – the guidance strikes the right balance and is not overly prescriptive regarding processes	42	42%
Yes – the right balance has been struck, however further guidance needed in relation to practical implications of ‘having regard’ to local improvement targets	31	31%
Yes – the right balance has been struck, however concern over the role of partners in meeting targets	11	11%
No – the guidance does not strike the right balance on accountability and meeting targets	17	17%
Total responses⁶	101	100%

Overview of responses

The vast majority of respondents felt that the right balance has been struck in relation to “having regard to local improvement targets”. The guidance is viewed to be generally balanced in terms of ensuring accountability and rightfully emphasises the importance of cooperation between partners. The lack of overly prescriptive processes takes into account variations in local conditions and allows for flexibility in the setting of local priorities.

Suggestions were made in relation to a range of practical considerations. These primarily related to the potential to strengthen accountability, monitoring and enforcement arrangements, the need to encourage data-sharing between partners and acknowledgement that resource constraints are a real barrier.

Other areas considered to require further clarification within the guidance include how targets and indicators are established, and the role of partners in meeting these targets.

A small minority of respondents expressed a belief that this section of the guidance failed to strike an appropriate balance. This view is due mainly to the perceived over-emphasis on ‘national targets’ at the expense of ‘local targets’ and (as previously described) a lack of accountability, monitoring and enforcement mechanisms related to meeting these targets.

⁶ See ‘note on method of analysis’ within introduction and overview for explanation of total responses

Detailed responses

Yes – the guidance strikes the right balance and is not overly prescriptive regarding processes

Summary: Respondents felt that the guidance was balanced and non-prescriptive. The roles and responsibilities of partners and LSPs are clearly set out.

“We believe that the practical implications outlined...are helpful and provide clarity, particularly for partners, on the expectations being placed upon them.”

– *local authority (county)*

“The guidance has clearly illustrated the relationship between local improvement targets and the delivery of priorities. It has further provided clear examples of the evidence required to demonstrate this link”

– *local authority (unitary)*

- The guidance is balanced in terms of ensuring accountability and will ensure the transparency of the process
- The approach taken in the guidance is not prescriptive, thus taking into account variations in local conditions and allows for flexibility in the setting of local priorities, but does emphasise the importance of cooperation between statutory partners
- The emphasis on data sharing is deemed appropriate and desirable, and is clearly explained
- The CAA inspection regime should similarly focus on the delivery of outcomes as outlined in this guidance
- Welcome emphasis that non-designated targets warrant the same degree of accountability as designated targets from local and partner authorities

Role and responsibility of partners and LSPs

- The guidance offers a practical explanation of what is required from each set of partners
- Welcomed that responsible local and partner authorities should have regard to local improvement targets to ensure that they are fully embedded in their business planning and performance management processes
- The guidance provides sufficient information to assist LSPs in putting in place arrangements to ensure the delivery of LAA targets

Yes – the right balance has been struck, however further guidance needed in relation to practical implications of ‘having regard’ to local improvement targets

Summary: Respondents felt that the right balance had been struck in the guidance, however underlying concern regarding the practical requirement of meeting local targets. This includes problems with ensuring effective data sharing and the process of establishing targets and indicators.

Establishing targets and indicators

“Whilst the balance between using local improvement targets to ensure clear accountability and ensuring flexibility using a non-prescriptive approach would appear to be satisfactory it is felt that there could be more guidance here on... the need to determine indicators that establish the ‘root causes’ of issues as opposed to the discernable symptoms.”

– *partner authority*

- Need to clarify within the guidance that the LAA is the delivery vehicle for the SCS – danger that partner authorities will focus solely on LAA targets to the detriment of the vision and objectives of the SCS
- There should be a requirement to establish targets that have a demonstrable baseline against which to measure and to determine indicators that establish ‘root causes’ of issues as opposed to the symptoms
- Further guidance is needed on the links between Multi Area Agreements and CAA
- Guidance should ensure that local improvement targets are made available to non-statutory partners to improve transparency and general awareness of local area goals
- Need more explicit guidance on actual ‘target setting’
- It should be clearer that improvement targets should be formulated from a bottom-up not top-down approach
- The guidance ignores the fact that Council and partner organisations will have a large number of priorities and targets which are not reflected in the 35 (maximum) within the LAA or even the 198 contained within the National Indicator Set
- Important that the list of 198 indicators remained unaltered for the lifetime of the new LAA

- Guidance should acknowledge the equal importance of local and national indicators

Data-sharing

“The implications of data-sharing will need to be carefully considered, particularly in the context of small community groups and those who work with vulnerable people”

– *third sector organisation*

- Effective data-sharing is highly aspirational and difficult to deliver in practice – perhaps more guidance in the form of suggested protocols etc should be provided in order to encourage a comprehensive evidence base
- Effective data-sharing is only really achievable through the cooperation and involvement of a range of different organisations
- The guidance should clearly state how beneficial data-sharing can be in developing a common performance management framework
- Important that data is shared by partners whether or not the priority is within the LAA

Accountability

- Important that all partners (statutory and non-statutory) are accountable for their contribution towards targets
- Accountability arrangements could be strengthened if partners were encouraged to better align business and budget planning cycles, and there was a formal requirement for partners to present their business plans to the LSP Board and Thematic Partnerships
- Any formal accountability requirements, however, should not be overly burdensome – risk that this will lead to responsibilities being passed down the chain to less well-placed providers

Monitoring and enforcement mechanisms

“The ongoing monitoring role of the ‘responsible authority’ for the LAA is critical to ensuring progress is made on all targets, regardless of who is the lead organisation”

– *local authority (county)*

“...the guidance does not go far enough in setting out what the consequences are/should be where there is not regard to local improvement targets, where accountability in such cases sits and what respective roles of the LSP and the council should be.”

– *local authority (unitary)*

- More explicit guidance on monitoring outcomes by authorities is required
- Organisations should be asked to demonstrate through 'service plans' and 'staff objectives' how targets are being met
- No guidance on the intended consequences of serious or consistent breaches such as sanctions or penalties

Resource allocation

"...the paragraph [para 6.2] does not recognise explicitly the different strategic, operational and financial constraints for the various partner organisations which may impact significantly on their ability to 'have regard'."

– local authority (unitary)

- Acknowledgement that resource constraints may restrict the ability of authorities to adequately meet targets
- Risk that LAA targets become silos/themes because resources are more easily identified for these purposes

Yes – the right balance has been struck, however concern over the role of partners in meeting targets

Summary: Respondents felt that the right balance has been struck, however clarification is needed on the role of partners in helping to deliver targets, particularly non-statutory partners.

"...where some targets have several partners contributing to the outcome, a 'lead partner' should be clearly stated to improve accountability, with other contributing partners also named."

– local authority (unitary)

- Unclear how non-partner authorities (including the third sector) are to be practically included in the 'having regard' to local improvement targets, and there are a host of unresolved governance issues associated within the delivery of targets by these non-statutory partners
- A parallel process of duty to cooperate/ duty to 'have regard' for government departments as well as the agencies listed in the guidance should be instigated
- The responsibilities of partners with respect to LSPs needs to be strengthened in the guidance

No – the guidance does not strike the right balance on accountability and meeting targets

Summary: Respondents felt that the guidance failed in its attempt to balance clear accountability and meeting local targets. In addition to many of the concerns highlighted in preceding sections (eg accountability arrangements and monitoring mechanisms), a prevailing tension between locally and nationally devised targets was cited as a specific concern.

General comments

- Needs to be more clarity about the need for streamlining and closer alignment in the selection of local targets and related monitoring mechanisms – monitoring also needs to be provided for different spatial levels and types
- There is a lack of penalties for those who fail to 'have regard' to meeting targets
- The guidance needs to clarify the role of the LSP in overseeing the progress towards targets in both the LAA and the SCS

National versus local targets

"The use of a single set of national targets and indicators to measure performance across service territories [means that] no account [is] taken of local conditions and diversity."

– *public sector organisation*

- The guidance should make reference to locally agreed measures and targets as well as those agreed with the Government within the LAA
- The focus of the LAA must be locally determined targets as much as it is 'hard' targets prescribed by the National Indicator Set
- Nationally defined targets tend to constrain the ability of service owners to respond to local views and issues

Accountability arrangements

"The term 'have regard to' is not clear enough to ensure accountability... Clearer guidance is needed in relation to partners' responsibilities and the implications of not fulfilling these responsibilities as they relate to area-based risk assessments."

– *local authority (unitary)*

- The guidance does not provide sufficient clarity as to the accountability arrangements for ensuring that partners fulfil their responsibilities
- Accountability may be compromised by the likelihood that partners will not want

to be held responsible for failure to achieve targets

- There is a need for clarity for in terms of the potential conflict arising from the incompatibility of horizontal (local) versus vertical (national) accountability

Government response

The description of the duty to have regard in the draft statutory guidance was broadly welcomed, with most respondents clear that the right balance had been struck. Where respondents did not agree, in many cases this was because they wanted more detail on how the duty will be monitored and enforced through the Comprehensive Area Assessment. However, some other issues pertinent to the statutory guidance were raised, which we have responded to with a number of alterations:

- **Data sharing** – It is important that the statutory guidance does not become prescriptive of how local partners share data, but we agree that the guidance needs to mention that data sharing should not be restricted to priorities that have improvement targets set against them and we have added some further detail to clarify this.
- **Accountability of partners** – Whilst some respondents suggested that the text could be augmented to give more detail on the accountability of partners for targets they have signed up to, we consider that the existing text goes far enough in this respect and that to add further detail would be overly prescriptive of processes. However, we have asked for partners to voluntarily identify themselves as ‘lead partners’ where appropriate when LAAs are submitted, in order to assist local partners in keeping track of who will be leading on each target.
- **Role of non-statutory partners** – A number of respondents identified this section as being relatively weak in how it explains the role of non-statutory partners who have chosen to sign up to targets. Whilst non-statutory partners are not subject to the duty to have regard, we agree that their role does need to be explained in this section and we have done so by incorporating some of the material that had been in chapter 5.
- **Local targets and designated targets** – The draft statutory guidance mentioned that the duty to have regard applies to all LAA targets. Some respondents asked us to make this clearer in the final version and some changes have been made to this effect.
- **Role of the LSP** – Some respondents suggested that the guidance could be clearer about the role of the LSP in overseeing the delivery of the LAA. As such, we have reiterated and strengthened where appropriate the text on the role of the LSP at the beginning of the section on delivering priorities.

1.5.2 Responses to Question 5 – trade-offs in the delivery of quality services and value for money

Question 5 – Does this section provide sufficient clarity on the trade-offs that best value authorities must make when seeking to provide both quality services to local communities and value for money to the taxpayer?

Response group	Number of responses	As % of total responses
Yes – there is sufficient clarity on trade-offs when seeking to balance ‘quality services’ and ‘value for money’	34	36%
Yes – sufficient clarity on trade-offs, however clarification required on associated challenges including balancing competing pressures	16	17%
Yes – sufficient clarity on trade-offs, however role of partners in balancing ‘quality services’ and ‘value for money’ needs clarification	9	10%
No – further guidance needed on how to balance ‘quality services’ and ‘value for money’	35	37%
Total responses ⁷	94	100%

Overview of responses

The majority of respondents felt that the trade-offs have been properly addressed. The non-prescriptive approach of the guidance was particularly welcomed, giving local authorities the flexibility to ensure that decisions are open, transparent and accountable whilst acknowledging the difficulties associated with balancing competing pressures.

Of these respondents, some requested further clarification of some aspects of the guidance. These included the role of partners and issues relating to the practical aspects of service delivery and absence of criteria for monitoring and assessing outcomes, trade-offs and ‘value for money’. A significant minority would prefer to see further guidance on balancing ‘quality services’ and ‘value for money’.

⁷ See ‘note on method of analysis’ within introduction and overview for explanation of total responses

A small number of respondents considered that neither trade-offs nor the concept of 'best value' were sufficiently explained. They felt that the guidance did not offer any significantly new strategies to local authorities on delivering best value services, that the role of elected representatives was underrepresented, and that advice on how to balance competing pressures was insufficient.

Detailed responses

Yes – there is sufficient clarity on trade-offs when seeking to balance 'quality services' and 'value for money'

Summary: Respondents felt that the guidance was sufficiently clear on the trade-offs that best value authorities must make. Explicit acknowledgement of the existence of competing pressures is welcomed.

"We support this approach in working with partners through full engagement in the delivery planning and commissioning of services to meet the needs of communities and taxpayers."

– *local authority (county)*

"We particularly support the recognition that best value is not just about price but is about meeting local needs as efficiently and effectively as possible"

– *local strategic partnership (district)*

- Welcomed that this section is not overly prescriptive as local priorities will always need to be assessed in achieving best value
- Although the list of 'competing pressures' is not exhaustive, the guidance makes it clear that there is a balance to be achieved between competing pressures when seeking to provide services that respond to local needs (such as 'responsiveness' and 'whole-life costs')
- The flexibility in the guidance allows local authorities to ensure that decisions are open, transparent and accountable

- The guidance provides a clear explanation of the concept of ‘value for money’, especially to authorities and representatives of local persons not as well versed in this way of working

Yes – sufficient clarity on trade-offs, however clarification required on associated challenges including balancing competing pressures

Summary: Although respondents agreed that trade-offs have been sufficiently explained there were some specific areas of concern, especially in relation to balancing competing pressures and over community expectations outstripping the capacity of available resources.

Competing pressures

“There are numerous pressures that best value authorities... must balance when seeking to provide both quality services to local communities and value for money to the taxpayer... the guidance lists many of these pressures: however this list is not exhaustive and the guidance must be clearer in recognising that there may be other factors that commissioning bodies will have to take into consideration when making decisions”

– *third sector organisation*

- Although the guidance recognises that there are competing pressures on partner authorities, greater emphasis needs to be given to the fact that the nature of these pressures are likely to be highly influenced by local factors (ie different areas have different pressures)
- Additional pressures include: the need to allow for risk taking and innovation (essential when tackling complex and difficult issues) and the need to address national priorities
- Further information is needed on how authorities and other partners can practically respond to and address these competing pressures (including criteria for monitoring and assessing outcomes, trade-offs and value for money)

Resourcing

“...there is always a concern that through the duty to involve, expectations of communities will supersede the resources available to deliver. It will therefore be essential that authorities clearly communicate to their communities the constraints and pressures on limited resources, to ensure that views and expectations are realistic and informed.”

– *local authority (district)*

- There should be closer monitoring of the management of resources by authorities

Delivery of quality services

“What has to be worked on is the concept of service quality, in the sense of services demonstrably meeting people’s needs and aspirations”

– *local authority (unitary)*

- Further guidance required on what the concept of delivering a ‘quality service’ to communities means in practice

Yes – sufficient clarity on trade-offs, however role of partners in balancing ‘quality services’ and ‘value for money’ needs clarification

Summary: A small level of concern was expressed concerning the role of partners in ensuring the delivery of ‘quality services’ and ‘value for money’ and engaging with the wider community.

“This section provides some clarity on the trade offs but it must be supplemented by other guidance in terms of assessment of the outcomes achieved by ‘best value’ authorities. . . It will be important that the assessment criteria for all statutory partners are understood, and are, as far as possible, the same for all partners.”

– *local authority (unitary)*

- The guidance needs to be more explicit in seeking to respond to the needs of a wider community cross-section
- Further guidance required on partnerships engaging with communities in open dialogue (and the challenges that are presented) – by improving consultation and community participation in decision making, increased likelihood of ‘best value’ principles being adhered to in practice

No – further guidance needed on how to balance ‘quality services’ and ‘value for money’

Summary: Respondents expressed concern that the trade-offs had not been sufficiently explained. Many of these concerns have already been discussed in preceding sections and relate primarily to issues such as competing pressures and the role of partners.

General comments

“There is limited information in this section on the trade offs that authorities should make when providing services. Authorities are already aware that they need to provide value for money, not just looking at the cost but also quality, performance and customer satisfaction with the service.”

– *local authority (district)*

- The guidance in this section is very brief, overly theoretical and offers no new strategies to local authorities on delivering best value services
- Given the fundamental role of this section in the process, there needs to be included within the guidance exemplars of best practice and other support materials
- Greater clarity on best value and how to achieve the right balance in the tension between taxpayer and customer is needed

Quality services and value for money

- The suggestion of a ‘trade-off’ between value and quality could imply that these two concepts are mutually exclusive – this should not be the case
- There needs to be a clearer methodology/approach to measuring ‘value for money’ and ‘quality services’
- Value for money is determined by a number of factors not expressly referred to in the guidance. These include:
 - whether the service being commissioned is clearly specified
 - whether there is keen competition between potential providers
 - issues outside the control of the partnership that influence expenditure

Competing pressures

“We are not confident that the section provides clarity but is rather just a statement that the issues need to be balanced against each other. Due to the lack of clarity the section is open to interpretation and can therefore be used to either positive or negative effect.”

– *local authority (county)*

- The guidance needs to provide further examples of competing pressures (eg contribution to social capital, community cohesion) – at present the examples given fail to provide a definitive clarification of what is required to achieve balance
- The guidance should recognise explicitly that wider consultation may lead to conflicting demands (in addition to those already stated within the guidance)
- May not always be possible to balance competing needs in areas of particular diversity

- The guidance fails to emphasize the concept of value for money in relation to competing pressures – a key issue for residents – and needs to be spelled out

Role of partners

“Each partner has specific objectives which may differ from those of other partners and therefore it will require significant negotiation and flexibility in approach to ensure the needs of communities and service users are given objective consideration in the allocation of resources.”

– *local strategic partnership (district)*

- Local authorities have a central role in the exercising of choice and discretion alongside the role of other partners and partnerships in ensuring and achieving value for money
- The guidance provided on the role of elected members as the representatives and ‘community champions’ of local peoples is inadequate and requires further emphasis
- This section would benefit from greater detail regarding the way in which local authorities are expected to cooperate with local partners

Government response

With the guidance around the duty to promote best value, we sought to provide flexibility and recognise the competing pressures that authorities often need to balance. We stressed that only through a dialogue with local communities, as envisaged by the duty to involve, can the right balance be struck between them. Whilst a clear majority of the consultation responses supported this approach a number of respondents believed we had not quite succeeded in our objective. A number felt that the role of both elected members and partners needed to be expanded upon. In response we have made clear that community engagement is ideally led by elected members. In the draft guidance we made clear that partners should also be engaged. In the final guidance we have built upon this by making clear that as part of the LSP’s continuing role the partnership should work together to maximise the efficiency and effectiveness of those resources.

Demands for more detailed and exhaustive guidance: A minority of respondents were seeking a much greater level of detail from the guidance around the specific methodologies that best value authorities should utilise to judge how best to secure best value in particular circumstances. We consider, however, that the guidance cannot and should not attempt to set out an exhaustive list of different considerations neither should it prescribe the precise decision-making processes authorities will need to go through. Instead the statutory guidance should continue to focus on the key standards to take account of when taking these decisions.

1.5.3 Responses to Question 6 – placing service users and communities at the heart of commissioning

Question 6 – We want to place service users and communities at the heart of commissioning. Do you believe that the guidance given, here, together with that on the new duty to involve in Section 2, work together to help achieve that ambition?

Response group	Number of responses	As % of total responses
Yes – the guidance helps to achieve the ambition of placing service users and communities at the heart of commissioning	23	21%
Yes – the guidance helps to place service users and communities at the heart of commissioning, however needs to provide sufficient further advice on practicalities	38	34%
Yes – the guidance helps to place service users and communities at the heart of commissioning, however further guidance required on the role and responsibilities of partners and local authorities	28	25%
No – the guidance fails to place service users and communities at the heart of commissioning and needs to provide sufficient advice on practicalities, and the role and responsibility of partners and local authorities	23	21%
Total responses ⁸	112	100%

Overview of responses

Most respondents believed that the guidance is generally successful in placing service users and communities at the heart of commissioning. The explicit involvement of front-line staff, leaving the decision about involvement to the local authority and the placing of the commissioning process in the context of better, more sustainable and inclusive services and outcomes are all welcomed.

The need for clarification of the role and responsibility of partners, however, was identified as a significant underlying concern. Further clarification on how active community

⁸ See 'note on method of analysis' within introduction and overview for explanation of total responses

engagement and empowerment through commissioning will be resourced was also sought.

A minority of respondents expressed the opinion that the guidance did not succeed in its aim of placing service users and communities at the heart of commissioning, primarily for the reasons already discussed (practicalities, role and responsibilities of partner and local authorities).

Detailed responses

Yes – the guidance helps to achieve the ambition of placing service users and communities at the heart of commissioning

Summary: Respondents felt that the guidance is generally successful in placing service users and communities at the heart of commissioning. The community engagement and empowerment messages contained in the guidance will help ensure the delivery of local services directly meeting local needs

“The guidance stresses the importance of service users and communities being at the heart of commissioning. Again, the guidance does strike a good balance in setting out the right principles around involvement in commissioning, whilst recognising competing pressures under commissioning and procurement regulations.”

– *other organisation*

- Guidance clearly sets out the way in which service users and communities are able to place themselves at the heart of commissioning
- Commissioning process is put in the context of better, more sustainable and inclusive services and outcomes
- Guidance seeks to balance the strategic requirements of the commissioning role with the involvement of service users and frontline staff at all stages of the cycle – this approach is welcomed
- Welcome that the guidance leaves the decisions about involvement to the local authority
- The explicit involvement of front-line staff is welcomed

Yes – the guidance helps to place service users and communities at the heart of commissioning, however needs to provide sufficient further advice on practicalities

Summary: Respondents felt that the guidance is generally successful in placing service users and communities at the heart of commissioning, but further explanation is required on specific practicalities associated with undertaking such commissioning. These include resourcing, conflict resolution mechanisms and the need to encourage capacity building.

Resourcing

“Commissioning is a positive approach to resource allocation, however, in order to ensure service users and communities are at the heart of this it will require significant support.”

– *local strategic partnership (district)*

- Additional support should include both the covering of costs, and the provision of a ‘knowledge base’ to inform communities and service users of the needs and issues to be addressed
- The level of participation sought by the guidance will be difficult to achieve from existing budgets
- Guidance relies heavily on the local authority developing a strong evidence base with knowledge of local needs

Capacity building

“The guidance also needs to make it clear that genuine long term local engagement and capacity building (eg. in neighbourhood management) are a vital complement to engagement at the strategic level, particularly for the most excluded or deprived groups or neighbourhoods.”

– *local authority (unitary)*

- Facilitation and capacity building are required to enable local people to access the new consultation mechanisms and make informed commissioning decisions – currently no reference to capacity building within the guidance
- Unless issues are considered to be of community importance, it will be very difficult to get all stakeholders to become involved in commissioning activities

Conflict resolution and accountability

“The guidance makes the overall intention and direction clear. However, it could go further in recognising the need to manage the inevitable tensions that will arise when expectations are raised through community engagement mechanisms that need balancing against limited resources, operational needs and statutory requirements.”

– *local authority (unitary)*

- Further clarification on how accountability would be managed – especially in multi-agency commissioning environments and in relation to the local authority
- Mechanisms for front line staff to properly inform the commissioning cycle need to be developed
- The guidance should recognise the need to manage the inevitable tensions arising between competing partners (eg. statutory and non-statutory partners)
- Placing communities and service users at the heart of commissioning can sometimes lead to conflict with local authorities – there are currently no procedures for dealing with conflicts of interest

Yes – the guidance helps to place service users and communities at the heart of commissioning, however further guidance required on the role and responsibilities of partners and local authorities

Summary: Respondents felt that the guidance is generally successful in placing service users and communities at the heart of commissioning, but further guidance is required on the role and responsibilities of partners and local authorities in the commissioning process.

“The guidance also focuses on the role of the local authority in relation to commissioning but fails to mention the roles and resources of other partners and the commissioning role of the LSP itself and the potential for this to add value to the work of individual partners.”

– *local authority (unitary)*

- The varied roles of contributing partners needs to be drawn out in the guidance
- The involvement of service users, including third sector and ‘representatives of local people’ (especially those that are ‘disengaged’ or ‘hard to reach’) within the commissioning process needs to be clarified
- Important that effective channels of user and community engagement are developed – this can be achieved by using consultation and needs analysis to develop an accurate community profile

- More emphasis needs to be placed upon the importance of the LSP and the Local Involvement Networks working in close cooperation, thereby limiting duplication

No – the guidance fails to place service users and communities at the heart of commissioning and needs to provide sufficient advice on practicalities, and the role and responsibility of partners and local authorities

Summary: Respondents felt that the guidance failed to place service users and communities at the heart of commissioning. The reasons cited pick up on many of the points already discussed in relation to the practicalities of commissioning, including the need for a skills knowledge base, a perceived lack of resources, and the role and responsibilities of partners and local authorities.

Practicalities

“...we are not convinced that local authorities have the right skills, knowledge or experience to carry out such a commissioning function as described, let alone involve service users and communities in such decisions.”

– *partner authority*

- General feeling that there is an imbalance between or insufficient explanation of the duty to involve and commissioning
- The levels of accountability of the commissioned partnership/organisation to the local authority needs to be clearly established
- The guidance could be made stronger on ‘participatory budgeting’
- There is potential conflict between the duty to involve (refers to specific representatives) and this section of guidance which seeks to involve a much wider cross-section
- Need to be aware of the potential for ‘consultation fatigue’

Role and responsibilities of partners and local authorities

“The intended role of communities in commissioning is not clear... suggests an undue burden or expectation on local communities to become involved in service delivery...when the majority of people do not desire this level of engagement...”

– local authority (unitary)

- Needs to be greater acknowledgement that directing commissioning towards a more ‘customer-driven’ approach relies greatly upon the existence of suitable expertise within the third sector and wider community
- The intended role of the community and the extent of their involvement (eg monitoring of contracts) needs to be clarified
- Potential for conflict between local authorities or LSPs in two-tier areas

Government response

We have sought to put “people and places” at the heart of commissioning by drawing a direct link between securing best value and the duty to involve – this link has been strengthened in the final guidance. We have sought to do this by articulating that a clear way of fulfilling the duty to involve is through: the active participation of local people in commissioning decisions; local people leading elements of the commissioning process (eg. participatory budgeting); and direct community action (eg. asset transfer, communities running services).

Nonetheless, we recognise that this represents a challenge to local authorities. This agenda is also addressed in the *Community Empowerment White Paper* published today. We have also established a national network of empowering authorities who will showcase and disseminate best practice in empowerment.

We have committed to supporting a Regional Empowerment Partnership in each of the nine English regions. These Partnerships will increase opportunities for community members to feed their knowledge and expertise into policy-making and practice at local, regional and national level. The Empowerment Partnerships will collaborate with Regional Improvement and Efficiency Partnerships to develop programmes for the region that support the capacity of local authorities to empower their local communities, and to ensure the services they deliver are developed and transformed with the public’s involvement and use in mind.

1.5.4 Responses to Question 7 – three-year grant funding

Question 7 – The commitment to three year grant funding for partners in third and business sectors is important. Have we struck the right balance between using this guidance to strengthen that commitment and not being too prescriptive regarding process?

Response group	Number of responses	As % of total responses
Yes – the guidance strikes the right balance between strengthening the commitment to a three year grant funding and not too prescriptive regarding process	41	44%
Yes – the guidance is not overly prescriptive regarding process, however needs to clarify elements of grant funding	19	20%
Yes – the guidance provides a good explanation of grant funding, however needs to clarify process and other practical considerations	18	19%
No – the guidance fails to strike the right balance and needs to clarify process and other practical considerations	15	16%
Total responses ⁹	93	100%

Overview of responses

An overwhelming majority of respondents agreed that the guidance had strengthened the commitment to three year grant funding and was not overly prescriptive. Such a move will provide greater funding stability for a wider range of partners (including third and business sectors) and will assist in longer term strategic planning. The guidance once again leaves decisions regarding the implementation of grants to local circumstances.

A level of concern was expressed regarding some practical considerations. These include the need for guidance on monitoring and enforcement measures, and that some level of capacity building will be required. Related to this was a call to retain shorter-term grants, giving partnerships greater flexibility.

A small proportion of respondents believe that the guidance fails to achieve a proper balance. A range of concerns were cited including those discussed above.

⁹ See 'note on method of analysis' within introduction and overview for explanation of total responses

Detailed responses

Yes – the guidance strikes the right balance between strengthening the commitment to three year grant funding and not too prescriptive regarding process

Summary: The guidance successfully details three year grant funding whilst remaining non-prescriptive with regards to process. Three year grants will provide greater funding stability for a wider range of stakeholders and enable decisions to be made locally.

“The guidance sets out a broad set of principles and minimum standards in respect procuring services. This should be viewed in a positive light as it allows local authorities the flexibility and freedom to adapt these according to the particular needs and circumstances.”

– local authority (unitary)

- The move towards three year grants will provide greater funding stability for a wide range of partners (including third and business sectors) and assists in longer term strategic planning
- Welcomed that the guidance leaves decisions regarding implementation of grants to local circumstances
- The guidance reflects the commitments made in some LA's Compact agreements

Yes – the guidance is not overly prescriptive regarding process, however needs to clarify or strengthen elements of funding arrangements

Summary: Whilst respondents felt that the guidance is not overly prescriptive with regards to process, some concern was expressed at the favouring of arbitrary three year funding periods at the expense of useful shorter-term grants.

“Whilst we welcome the pledge...of three year funding for grants, it is important to recognise that the duration of any funding commitment should be in relation to its purpose and that this may be either longer or shorter than three years.”

– third sector organisation

- Guidance would benefit from a clearer distinction between awarding ‘grants’ (shorter term) and ‘contracts’ (3-year term)
- Potential difficulties involved in funding agreements which extend beyond three years given that LAs are themselves locked into a 3-year funding cycle

- Effectiveness of the three year funding cycle will be hindered unless other public sector partners also follow a three year arrangement
- Similarly, retaining shorter-term grants would allow partnerships greater flexibility, enabling them to build capacity etc
- Clarity is needed on the role that grant funding can play in the commissioning process (ie differs from contracting)
- No clear statement of law on how to move away from annual funding processes
- Important to build flexibility into long-term commissioning so that 'personalised' services are possible

Yes – the guidance provides a good explanation of grant funding, however needs to clarify process and other practical considerations

Summary: Respondents felt that although grant funding was sufficiently explained, the processes and associated practicalities (capacity building, monitoring and enforcement mechanisms etc) involved in facilitating such funding require further clarification.

“...it should always be clear from the outset what the term of funding is, what conditions are attached to it, and what will constitute unacceptable performance, so that local public bodies and third sector organisations can be clear about the levels of risk they are entering into...”

– *third sector organisation*

“Challenges remain around the alignment of internal processes and the cultural change required within services to achieve the standard of three year funding agreements.”

– *local authority (county)*

- Guidance on monitoring, enforcement and punitive measure is needed
- Explicit need for central government to put into practice its commitment (Comprehensive Spending Review) to provide local authorities with three year funding to align with the approach outlined in this guidance
- Important that the 'performance outcomes' are transparent and achievable
- Terms for linking outcomes with payment must be clear, achievable and agreed by both parties
- A degree of capacity building will be required so that partners can fully engage in the process, including professional training and financial support for partners

- Challenges remain around the alignment of internal processes
- More guidance on the role of the LAA and LSP in coordinating the distribution of funding within local context is needed
- Introducing a rolling review of the three year commitment to grant funding would help to provide stability for commissioned organisations

No – the guidance fails to strike the right balance and needs to clarify process and other practical considerations

Summary: Respondents felt that three-year grant periods are too short to enable the delivery of proper services and did not necessarily lead to greater funding stability. The guidance was also felt to suffer from a level of both over- and under-prescription in specific areas.

“With the current financial constraints and lack of long term funding for local authorities it will be difficult for LAs to develop the confidence to commit substantial funds on a longer term basis without clearer guidance on what conditions and contingencies should be attached to payments.”

– *local authority (unitary)*

“Three years is not a long enough period for funding given that set-up costs and the time it takes to deliver, embed and provide a service can take a considerable amount of time. There is therefore a risk that a three year funding programme is too short, to make a difference within the community.”

– *local authority (district)*

- Possible counteractive impact of setting up of ‘performance based payments’ – risk that partners could focus on achieving certain performance levels at the cost of longer term improvements
- Greater prescription is needed in relation to funding allocations to enable LAs to follow due process
- The guidance is too prescriptive in parts (eg the combining of contracts and grants in this guidance clouds rather than clarifies the process); whilst the lack of prescription in other areas means that the guidance adds little to the current knowledge base

Government response

Respondents were generally of the opinion that the guidance was helpful without being prescriptive, but some issues were identified, which require changes to the guidance, for example, expanding on the distinction between the role of grants and contracts and in particular the explicit recognition of the positive role of shorter term grants eg promoting new community organisations and piloting innovative projects.

A minority of respondents were seeking a greater level of detail in the guidance on how best to move to awarding three year grants. We have not addressed this point through the final guidance as the Government believes this is best achieved through a dialogue between local authorities and their partners.

1.5.5 Other issues to emerge from consultation – delivering priorities

This section of the guidance posed a number of widely ranging questions, specifically around: having regard to local improvement targets; trade-offs when seeking to provide quality services and value for money; placing service users at the heart of commissioning and three year grant funding. A range of other issues were raised by respondents – the majority of these related to commissioning in the context of delivering priorities, especially the role played by local authorities.

Overarching role of LSP

- Given that LSPs are voluntary bodies, they should not be expected to take on the role of ‘strategic commissioners’ – they may struggle to have the skills and resources to undertake such a role

The commissioning role of local authorities

- The role of local authorities as a coordinator, commissioner and (on occasion) deliverer of services is potentially difficult but appropriate
- A clearer definition of ‘commissioning’ and how it can be undertaken is needed to support communities and service users
- The use of the term ‘commissioning’ is perhaps misleading as this term is widely misinterpreted/misunderstood
- Relevant case studies, exemplars and examples would greatly enhance understanding of the commissioning process and the culture shift required
- Would be useful for the guidance to set out the difference between strategic, operational and individual commissioning, and the difference between commissioning and procurement
- This section of the guidance is repetitive and much of the advice is self-evident and already considered good practice – as a result, question over the necessity of this section

- No evidence to support service improvement through the prescription of a client/contractor split – this concept is fundamentally flawed and overly prescriptive
- Needs to be a clearer distinction between commissioning of services for individuals and commission of larger scale services
- Commissioning at local authority level in most cases amounts to procurement – the conditions of ‘intelligent commissioning’ envisaged by the government do not exist
- Parish and town councils have an important role to play in commissioning and should be explicitly mentioned in this section of the guidance

Open and fair competition

- Potentially conflicting definition of commissioning between “without regard for whether services are provided in-house, externally or through various forms of partnership” and “strategically planning for services which deliver sustainable outcomes”
- Expecting the council to adopt a ‘provider neutral role’ in its core service provision is unlikely to lead to long term benefits to the community

Government response

We recognise that ‘commissioning’ is not always understood and that the language used to describe the process and its objectives can differ by local service area and/or department. We are seeking to use the guidance and its framing of the commissioning cycle to bring these different traditions together. The guidance will be a starting point for this and so we will continue to work across the Government to provide a common understanding of commissioning for commissioners, partners and providers.

Developing a common framework: The National Improvement & Efficiency Strategy identified building commissioning capacity as a priority area to support local government and its partners in community leadership. To this aim Communities and Local Government, Department for Children, Schools and Families and Department of Health are working together with local authorities and NHS bodies to formulate a strategy to develop such a capability across local government, and building upon World Class Commissioning,¹⁰. The key principles of World Class Commissioning are:

- providing a common understanding of commissioning for commissioners, partners and providers
- developing visible and effective leadership for the commissioning agenda
- developing commissioning capability through facilitating the right structures, environment and competencies
- investing in an effective, coherent and responsive infrastructure – nationally,

¹⁰ see <http://www.dh.gov.uk/en/Managingyourorganisation/Commissioning/Worldclasscommissioning/index.htm>

regionally and locally and maximising existing and developing provider capacity in improvement and development support

- finding inspirational commissioners, promoting and celebrating excellence and drawing from experience and lessons both here and overseas
- providing a basis for tackling the key national and local challenges which face the three Departments.

We have also however made a number of refinements to the guidance as the result of consultation responses:

The commissioner/provider split: We believe as part of its community leadership role local authorities need to focus upon championing the needs and improvements which communities expect to see, and then secure the best possible providers and partners. To do this authorities need to be clear about their role as both commissioner of services (in the interest of the community) and as a provider of some of those services. In the final guidance we have sought to be clear that the focus in these circumstances is upon having explicit mechanisms for commissioners to hold in-house provider functions to account for delivery and not the organisational arrangements which might be put in place to bring this about.

Parish/town councils: We do recognise the role which parish and town councils have in the commissioning of local services and now cite involving parish and town councils as a way of locating decisions closer to communities and so helping to meet the duty to involve and best value.

Section 2

Abbreviations

CAA	Comprehensive Area Assessment
LA	Local Authority
LAA	Local Area Agreement
LDF	Local Development Framework
LSP	Local Strategic Partnership
RSS	Regional Spatial Strategy
SCS	Sustainable Community Strategy
SDS	Sustainable Development Strategy
VCS	Voluntary Community Sector

Annex 1:

List of Respondents

Adur District Council

Age Concern England

Association for Public Service Excellence

Association of North East Councils

Audit Commission

Aylesbury Vale District Council

Basingstoke and Deane Borough Council and LSP

Birmingham City Council and LSP (Be Birmingham)

Black Minority Ethnic Community Network Organisations (BECON)

Braintree District Council

Brethren's Gospel Trust

Bristol City Council

British Humanist Association

Buckinghamshire County Council

Calderdale Council and LSP (Calderdale Forward)

Cambridgeshire County Council

Campaign to Protect Rural England

Chartered Institute of Housing

Cheltenham Borough Council

Cheshire Area National Probation Service

Cheshire County Council

Cheshire Fire and Rescue Service

Chester in Partnership

Chesterfield Borough Council

Chester-le-Street Local Strategic Partnership

Chichester District Council

Chief Fire Officers' Association

Chiltern District Council
Church Urban Fund
Commission for Rural Communities
Commission for Social Care Inspection
Commission for the Compact
Community Development Foundation
Confederation of British Industry
Consultation Institute
Cornwall County Council
County Councils Network
County Durham and Darlington Fire and Rescue Authority
Cumbria Strategic Partnership
Darlington Borough Council and Darlington Council Voluntary Services
Mr Nick Dean
DEFRA
Derby City Partnership
Derbyshire County Council
Devon County Council
Devon Strategic Partnership
Directory of Social Change
Dover District Council
Durham County Council
East Sussex County Council
Eastbourne Borough Council
Eden District Council
Eden Local Strategic Partnership
Elmbridge Borough Council
Enfield Citizens Advice Bureaux Service
Enfield Strategic Partnership
English Heritage
English Regional Development Agencies
Environment Agency

Essex Association of Local Councils
Essex County Council
Family Planning Association
Mr Michael Graham
Greater London Authority
Groundwork UK
Gurnard Parish Council
Hampshire County Council
Haulgh Community Partnerships
Mr Michael Heaslip
Help the Aged
Hereford and Worcester Fire and Rescue Service
Hertfordshire Association of Parish and Town Councils
Horsham District Community Partnership
Hyndburn Borough Council
International Association for Community Development
Iver Parish Council
Kent County Council
Knowsley Metropolitan Borough Council
Lancashire County Council
Lawley and Overdale Parish Council
Leeds City Council
Leicestershire County Council and LSP (Leicestershire Together)
Lincolnshire Assembly
Liverpool City Council
Local Government Association
London Borough of Barnet
London Borough of Bexley
London Borough of Bromley and LSP
London Borough of Camden
London Borough of Lambeth and Lambeth First LSP
London Borough of Redbridge

London Borough of Tower Hamlets
London Fire and Emergency Planning Authority
Merseyside Fire and Rescue Service
Metropolitan Borough of Wirral
Middlesbrough Council
Middlesbrough Partnership
Midland Heart
National Association for Voluntary and Community Action
National Centre for Excellence in Residential Child Care
National Children's Bureau
National Consumer Council
National Council for Voluntary Organisations
National Youth Agency
Natural England
NHS London Healthy Urban Development Unit (on behalf of
31 Primary Care Trusts in London)
North East Lincolnshire Council
North Tyneside Community Network
North Yorkshire County Council
Northern Housing Consortium
Nottingham City Council and LSP (One Nottingham)
Nuneaton and Bedworth Borough Council
Office for Public Management
Oldham Metropolitan Borough Council and Oldham Partnership
One Watford LSP
Play England
Preston City Council
Rotherham Metropolitan Borough Council
Royal Borough of Kensington and Chelsea
Rural Services Network
Safer South Gloucestershire
Salford City Council

Sandwell Metropolitan Borough Council
Somerset County Council
South Bucks District Council
South Essex Rape and Incest Crisis Centre
South Hams District and West Devon Borough Councils
South Norfolk Council
South Somerset Together LSP
South West Regional Development Agency
South Yorkshire Police Authority
Southwark Council
Stafford Borough Council
Staffordshire County Council
Ms Elaine Stewart
Stockton Renaissance LSP
Stratford District LSP
Suffolk County Council
Surrey Strategic Partnership (Surrey Community Planning)
Tees Valley Rural Community Council
Tenant Participation Advisory Service
Tendring District Council
The Theatres Trust
Thurrock Council
Totnes Town Council
UNISON
Vale of White Horse District Council
Voice4Change England
Voluntary Organisations' Network North East
Wakefield and District Housing
Wandsworth Borough Council
Waverley Borough Council
West Cornwall Together's LSP
West Cumbria Strategic Partnership

West Dorset District Council
West Dorset Partnership
West Somerset Strategic Partnership
West Sussex County Council
Westminster City Council
Wolverhampton City Council
Women's Resource Centre
Woodley Town Council
Worcestershire County Council
Worthing Borough Council
Wycombe District Council
Wycombe Partnership

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