

EAST AYRSHIRE COUNCIL

POLICY AND RESOURCES COMMITTEE – 15 NOVEMBER 2005

CONSULTATION ON THE ACCOUNTABILITY OF LOCAL AUTHORITIES (PUBLICATION OF INFORMATION ABOUT PERFORMANCE) (SCOTLAND) AMENDMENT REGULATIONS 2005

Report by Depute Chief Executive/Executive Director of Corporate Support

1. PURPOSE OF REPORT

- 1.1 To provide the Committee with an update on the Scottish Executive's progress in finalising regulations with respect to Section 13 of the Local Government in Scotland Act 2003, on requirements for Public Performance Reporting under Best Value and to seek approval of a Council response to the Executive's latest consultation paper on the draft regulations.

2. BACKGROUND

- 2.1 Public Performance Reporting has been a key feature of the National Best Value Regime for the last 6 years or so. With the introduction of the Local Government in Scotland Act, 2003, a statutory duty to secure Best Value was placed on councils. Public Performance Reporting is an important element of the requirements of the Act and the Scottish Executive indicated its intention to finalise statutory guidance and regulation which would set out its expectations on councils for the reporting of performance and related information to the public.
- 2.2 A report on the Scottish Executive's draft guidance and regulations, issued under Section 13 of the Act, specifically covering the 'duty to make arrangements for the reporting to the public on the outcome of the performance of its functions', was considered by the 27 November 2003 meeting of the Policy and Resources Committee.
- 2.3 The Committee agreed to submit comments on the draft guidance and regulations to the Executive and also agreed that a further report setting out a proposed East Ayrshire Council Public Performance Reporting Strategy be brought to a future meeting of the Committee at the appropriate time.
- 2.4 Whilst the Executive has already issued its guidance in final form, the finalisation of the regulations has taken longer than first anticipated.

- 2.5 This report provides Committee with an outline of the requirements of the draft regulations as currently proposed by the Executive and highlights what further steps, beyond those already agreed by the Council, may require to be taken to ensure full compliance with the regulations, as currently drafted.

3. CURRENT POSITION

- 3.1 Since the Scottish Executive first published the proposed draft regulations in August 2003, as part of their consultation paper at that time, there has been considerable dialogue between the Executive and stakeholders across Local Government and with representatives of COSLA, Solace, CIPFA and Audit Scotland on the proposed content of the regulations.
- 3.2 The Executive has listened to issues raised by stakeholders and in response has simplified and streamlined its proposed regulations. Prior to final approval of the regulations by the Parliament, the Executive has invited further comment on these latest proposals by 18 November 2005.
- 3.3 It should be noted that the regulations as currently proposed and upon which comments have been invited, vary considerably from the initial draft regulations reported to the Policy and Resources Committee of 27 November 2003. For ease of reference, a summary table has been appended to this report which compares the initial regulations with those now proposed. Further details on the impact of the proposed changes to the regulations is provided in section 4 of this report

4 PROPOSED REQUIREMENTS

- 4.1 The detail behind the proposed changes to the regulations were explained by the Executive in Performance and Improvement Circular 2/2005, which was issued with its latest consultation paper.
- 4.2 In summary, the Executive has concluded that there will not be a requirement on Local Authorities to disclose as part of their Public Performance Reporting arrangements, their trading accounts or an abstract for significant trading operations, or a summary of their capital and revenue expenditure under outsourced contracts. Disclosure of this information will, however, still be required within our annual accounts in compliance with the Code of Practice for Local Authority Accounting in the United Kingdom and the Executive has confirmed that relevant guidance developed by LASAAC and CIPFA should be followed in complying with this requirement. The Executive Head of Finance has confirmed that the Council's current arrangements comply fully with this requirement.

- 4.3 Similarly, there will be no statutory requirement imposed on Local Authorities to publish summarised financial statements. Instead it is recommended that Authorities, as a matter of good practice, follow the Model of Summarised Financial Statements for Local Authorities in Scotland developed by LASAAC. Members will recall, in approving the Council's proposed Public Performance Arrangements for 2005, at the last meeting of this Committee, that it was agreed to include summarised accounts produced in accordance with the above LASAAC guidance within our 2005 Public Performance Report. As a consequence, we are currently complying with suggested good practice as highlighted by the Executive.
- 4.4 The initial draft regulations received in August 2003 also contained a requirement for Local Authorities to make public a 'summary statement setting out the strategic arrangements it had in place under Section 1 of the 2003 Act during the financial year immediately preceding that in which the statement is made, what it did under those arrangements and to what effect, including an account of how it has regard to the need to meet equal opportunity requirements and how what it did contributed to the achievement of sustainable development'. Significantly, the Executive has now confirmed that there will no longer be a requirement to publish what an Authority is 'doing' under Best Value, as the Executive has conceded that it would be too difficult to interpret this requirement.
- 4.5 Anticipating that this original requirement would be retained in the final regulations, the Policy and Resources Committee on 19 February 2004, agreed among other things, that Executive Directors should prepare an Annual Position Statement for their respective Service Committees, which would highlight the Best Value activities their Services had been engaged in over the preceding 12 months and identify their programme of Best Value activity over the next 12 months. Pending the finalisation of the regulations, Best Value Position Statements have been prepared by departments over the last 2 years and reported to their Service Committees.
- 4.6 With the removal of this clause from the regulations, the Executive do not now consider it necessary for councils to summarise, within a single report, their Best Value achievements and proposed improvement plans. As a consequence, departments will not be required to prepare Best Value Position Statements, but will, however, wish to ensure that their reporting to Members on Best Value progress continues to be appropriate.

- 4.7 There remain within the current regulations, two specific requirements which authorities will be required to publish:-
- a statement specifying by what means and when the Local Authority proposes to carry out its duties under Section 13 of the 2003 Act during the remainder of the year in which the statement is made, said statement to be made no later than 1 April each year;
 - a statement of the Local Authority's assessment of progress against relevant recommendations for improvement other than any recommendation which it has been agreed by the person making the recommendation that it need not be included therein.
- 4.8 In relation to the first of these requirements, members will recall, in agreeing our Public Performance Reporting arrangements for 2005 at the last meeting of this Committee, that it was agreed to publish such a statement. This statement specifying when and by what means the Council plans to make available to the public, information about our services and financial performance in the forthcoming year has now been finalised and the availability of this information has been highlighted within the 2005 Public Performance Report. Additionally, members of the public can access the statement via the Council's website and the Council's Local Office and Libraries network. Accordingly, the Council is already complying with this specific requirement of the draft regulations.
- 4.9 The remaining outstanding requirement relates to the publication of a statement of our progress against relevant recommendations for improvement. This specific requirement has been the subject of much debate with the Executive, particularly around the definition of 'a recommendation for improvement' and the range of scrutiny bodies whose recommendations would require to be reported. As a consequence, the Corporate Management Team, having considered this potential requirement, agreed to await further clarification from the Executive before implementing arrangements for reporting on this matter.
- 4.10 The latest circular clarifies that the review of recommendations should pick up, in particular, those recommendations that have not yet been acted upon or remain unimplemented and that a '3 year' retrospective review of recommendations should be undertaken by Authorities.
- 4.11 The circular also confirms that 'recommendations for improvement' are formal recommendations made to an authority by a Scrutiny Body and provides examples of such Scrutiny Bodies, including Her Majesty's Inspectorate of Education, Social Work Inspection Agency, External Auditors and the Accounts Commission.

- 4.12 Now that detailed clarification of this requirement has been received, no difficulties in reporting this information are anticipated and it is suggested that the Officer Working Group established to review the Council's Public Performance Reporting Strategy be tasked with developing appropriate arrangements for complying with this obligation.
- 4.13 It is anticipated that the regulations will be approved by the Executive as soon as possible after this consultation exercise and will apply to the reporting year 2006/07, however, in view of the time taken to draft the regulations, the Executive expect that many authorities will be complying with the anticipated regulations in advance of 2006/07.

5. COUNCIL RESPONSE TO THE CONSULTATION

- 5.1 Clearly the development of the regulations by the Executive has been a protracted process. This has, however, as highlighted by the range of action already implemented above, enabled the Council to be well prepared to meet the requirements currently being proposed.
- 5.2 All Executive Directors have welcomed the changes to the regulations and concluded that the requirements can readily be incorporated into the Council's existing Public Performance Reporting arrangements.
- 5.3 It is proposed that it be remitted to the Depute Chief Executive/Executive Director of Corporate Support to respond to the Executive's Consultation subject to consideration of the terms of this report by this Committee.

6. POLICY AND LEGAL IMPLICATIONS

- 6.1 The various arrangements the Council already has in place in relation to Public Performance Reporting, together with the proposals contained within this report, will ensure that the Council continues to meet the specific requirements of the Local Government in Scotland Act, 2003 and supporting statutory guidance on Public Performance Reporting and be well placed to meet the requirements of the draft regulations on Public Performance Reporting once these have received Parliamentary approval.

7. FINANCIAL AND COMMUNITY PLANNING IMPLICATIONS

- 7.1 None arising from this report.

8. RECOMMENDATIONS

8.1 The Committee is asked to:-

- (i) note the changes to the draft regulations on Public Performance Reporting currently being proposed by the Executive;
- (ii) agree the terms outlined in Section 4 of this report as a basis for the Council's response to the Executive's consultation;
- (iii) note the intention to return to Committee on the further development of the Council's Public Performance Reporting Strategy once the regulations have finally been approved; and
- (iv) otherwise note the terms of this report.

Elizabeth Morton

Depute Chief Executive/Executive Director of Corporate Support

31 October 2005

BACKGROUND PAPERS

Letter dated 30 September 2005 from Kirstie Campbell, Scottish Executive Best Value Team on the Consultation on The Accountability of Local Authorities (Publication of Information About Performance) (Scotland) Amendment Regulations 2005 – **Copy at Members' Information Point**

Any person wishing to inspect the above background papers or seeking further information on this report should contact John Clayton, Head of Corporate Development and Communication (Tel: 01563 576165) or Martin O'Rourke, Best Value and Performance Manager (Tel: 01563 576223)

IMPLEMENTATION OFFICER: Head of Corporate Development and Communication

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PERFORMANCE) (SCOTLAND) AMENDMENT REGULATIONS 2005**

Summary of Regulation Amendments

Regulations Proposed in First Draft - August 2003	Regulations Proposed in Current Draft – September 2005
<p>Councils will be required to publish the following information by no later than 31 October each calendar year:</p>	<p>Local Authorities shall no later than 31 October in each year publish the following:</p>
<ul style="list-style-type: none"> • A statement specifying any (significant) recommendation for improvement made to the Local Authority, for example by the Council's External Auditors, formally and publicly during the period of 5 years ending with the date on which the statement is made where action has not been taken or has not been completed by the Local Authority in relation to that recommendation. 	<ul style="list-style-type: none"> • A statement of the Local Authority's assessment of progress against relevant recommendations for improvement other than any recommendation which it has been agreed by the person making the recommendation that it need not be included therein NOTE: A Recommendation for improvement is a recommendation made formally and publicly to a Local Authority, one by the person discharging a power or duty under an enactment to make that recommendation; or two by the person who is exercising statutory functions relating to the assessment of Local Authority performance, and three, since 1 April 2003.
<ul style="list-style-type: none"> • A statement specifying by what other means and when the Authority proposes to carry out its duties under Section 13 of the 2003 Act (relating to Public Performance Reporting) during the period of 12 months beginning with the date on which this statement is made. 	<ul style="list-style-type: none"> • A statement specifying by what means and when the Local Authority proposes to carry out its duties under Section 13 of the 2003 Act during the remainder of the year in which the statement is made, said statement to be made no later than 1 April each year.
<ul style="list-style-type: none"> • A summary of the Local Authorities tangible assets and their value at the end of the financial year, its sources of income, the amounts derived from the sources and its expenditure during that financial year 	<p>It is recommended that Authorities, as a matter of good practice, follow the Model of Summarised financial statements for Local Authorities in Scotland developed by LASAAC to produce a summary of their accounts.</p>

<ul style="list-style-type: none"> • Its Trading Accounts for significant Trading Operations in the financial year or an abstract of those accounts 	<p>Disclosure of this information will now be required within our annual accounts in compliance with the Code of Local Authority Accounting in the United Kingdom and relevant guidance developed by LASAAC and CIPFA should be followed.</p>
<ul style="list-style-type: none"> • A summary of its expenditure under significant works contracts 	<p>Disclosure of this information will now be required within our annual accounts in compliance with the Code of Local Authority Accounting in the United Kingdom and relevant guidance developed by LASAAC and CIPFA should be followed.</p>
<ul style="list-style-type: none"> • A summary statement setting out the strategic arrangements it had in place under Section 1 of the 2003 Act during the financial year immediately preceding that in which the statement is made, what it did under those arrangements and to what effect, including an account of how it has regard to the need to meet the equal opportunity requirements and how what it did contributed to the achievement of sustainable development. Section 1 of the Act outlines the requirements placed on Authorities in relation to securing Best Value and this aspect of the proposed regulations requires Councils to account for what they have done over the preceding years to achieve this. 	<p>This requirement has been removed.</p>

31 October 2005