

EAST AYRSHIRE COUNCIL

POLICY AND RESOURCES COMMITTEE - 28 NOVEMBER 2002

THE LOCAL GOVERNMENT IN SCOTLAND ACT 2003 – INTERIM CONSULTATION ON DRAFT GUIDANCE

Report by the Depute Chief Executive/Director of Corporate Resources

1. PURPOSE OF REPORT

- 1.1 To provide an outline of the content of the Scottish Executive's working drafts of statutory guidance relating to Best Value, Community Planning and the Power to Advance Well Being and the Council's proposed comments thereon.

2. BACKGROUND

- 2.1 Members will be aware that the Local Government in Scotland Bill is still progressing through the Parliamentary process and is expected to receive Royal Assent early next year. As such, development of the guidance is an ongoing process. The Scottish Executive intend to ensure that a collaborative approach to the production of the guidance in relation to the matters covered by the Bill is adopted and are keen to receive comments on this current draft guidance.
- 2.2 The Executive intends to consider any comments put forward at this stage and, prior to finalising the guidance in Spring 2003, will undertake further consultation on final drafts of the guidance.

3. KEY ELEMENTS OF THE DRAFT GUIDANCE

- 3.1 The draft guidance has been issued by the Scottish Executive as three separate documents covering Community Planning, Best Value and the Power to Advance Well Being. Whilst the Executive recognises the need to look at how the three sets of guidance can be better integrated, for ease of reference this report provides the key messages for each of these in turn.

3.2 Community Planning Guidance

- 3.2.1 The proposed guidance on Community Planning generally sits comfortably with East Ayrshire Council's own thinking and content in relation to the current draft Community Plan and also in relation to the Council's response to the Scottish Executive's consultation on Community Planning in November 2000.

3.2.2 The Local Government Scotland Act 2003 provides a statutory basis for Community Planning, giving local authorities a pivotal role to facilitate the process and committing other key agencies through a duty to participate. The Council welcomes both the statutory basis for Community Planning and also the need for all partners to participate in the process.

3.2.3 The guidance views Community Planning as the “means” to the “end” of delivering better services. The guidance reinforces the view that people should see real benefits from the collaboration envisaged under Community Planning through all agencies with national, regional or local responsibilities working together to clarify the outcomes and targets expected of their collective actions.

3.2.4 The guidance acknowledges that statutory duties in themselves will not secure the success of Community Planning and, therefore, further supplementary guidance provides a framework which can assist in the effective implementation of Community Planning. The final guidance will include good practice examples and consultees are encouraged to provide their own examples to facilitate the sharing of experiences. It is proposed that we provide information to the Executive on the various partnership projects implemented in conjunction with the Council’s Community Planning Partners, particularly the Dalmellington Area Centre and the Drongan Area Centre.

3.2.5 A point of particular note in the guidance is the Scottish Executive’s recent consultation on whether there should be a provision within the Act allowing Community Planning Partnerships to become incorporated bodies at a later date. Members may be aware that the Community Planning Core Partners Group on 18 November 2002 considered a report which was not in favour of incorporation and accordingly agreed to advise the Scottish Executive of this view. The proposal for incorporation was not favoured by the Core Partners Group for the following reasons:

- incorporation would divert attention away from the fundamental issues relevant to the community planning process;
- community planning partnerships are still at a relatively early stage and need to evolve at a local level to reflect the local context;
- the “one size fits all approach” is overly prescriptive;
- incorporation places an overemphasis on structure and would add another tier of bureaucracy, with associated staff and administrative costs diverting resources away from service delivery;
- a further concern would be the ability of an incorporated body, external to the partners agencies, to influence mainstream activity and budgets.

3.2.6 This further consultation on the draft guidance in relation to the Local Government Scotland Act 2003 provides a further opportunity for the Council to reinforce these concerns in its response to the Scottish Executive.

3.3 Best Value Guidance

3.3.1 The statutory duties for Best Value provided by this Act are in summary:-

- the duty of Best Value, being to make arrangements to secure continuous improvement in performance which have regard to economy, efficiency, effectiveness and the equal opportunities requirements
- the duty to break even in trading accounts subject to mandatory disclosure
- the duty to observe proper accounting practices
- the duty to make arrangements for the reporting to the public of the outcome of the performance of functions.

3.3.2 The need to be responsive to the needs of the communities, citizens, customers, employees and other stakeholders is a key requirement of the test of an authority's ability to demonstrate that it is securing Best Value and that the plans and priorities of the authority are informed by an understanding of identified needs. An important point here for the Executive is the need to consider also that the ability of a Local Authority to meet the expectations and needs of its stakeholders will also be affected by the level of resources available to it.

3.4 Guidance on the Power to Advance Well Being

3.4.1 A new discretionary power will be introduced which enables Local Authorities to do anything they consider is likely to promote or improve the well being of their area and/or persons in it. This is linked to Best Value and Community Planning in that Well Being is subject to the duty of Best Value and it is likely that some uses of the power to advance well being will stem from the work of Community Planning Partnerships. This wider enabling role which will be introduced is welcome.

3.4.2 It will be the responsibility of Local Authorities, however, to continue to check to see whether what they do under this power is expressly prevented, expressly limited or expressly prohibited by existing enactments.

3.4.3 Local Authorities can also regard the Power to Advance Well Being as including a broad spending power. The provisions relating to this power contain no restriction or limitation on the amount of money a Local Authority can spend and this should be welcomed.

4 LEGAL/POLICY IMPLICATIONS

- 4.1 The Local Government in Scotland Act 2003 is expected to receive Royal Assent in early 2003. Thereafter, this draft guidance will be finalised by the Scottish Executive and councils will require to review and refine their own approaches in these areas. Any specific legal/policy implications will be reported as necessary following the review of this Council's arrangements.

5 FINANCIAL IMPLICATION

- 5.1 None arising directly from this report.

6. RECOMMENDATIONS

- 6.1 The Policy and Resources Committee is asked to:-
- i) Agree to provide the Scottish Executive with the Council's comments on the draft guidance as set out within this report;
 - ii) otherwise note the contents of this report.

Fiona Lees
Depute Chief Executive/Director of Corporate Resources
11 November 2002

LIST OF BACKGROUND PAPERS

The Local Government in Scotland Bill, Working Draft Guidance – Interim Consultation

Anyone wishing to view the Background Papers or seek further information should contact Fiona Lees, Depute Chief Executive/Director of Corporate Resources or John Clayton, Head of Corporate Development and Communication on (01563) 576103 and (01563) 576195 respectively

IMPLEMENTATION OFFICER:- John Clayton, Head of Corporate Development and Communication