

## **EAST AYRSHIRE COUNCIL**

### **POLICY AND RESOURCES COMMITTEE – 27 NOVEMBER 2003**

#### **STATUTORY GUIDANCE AND REGULATIONS ON THE PUBLICATION OF FINANCIAL AND PERFORMANCE INFORMATION BY SCOTTISH LOCAL AUTHORITIES (PUBLIC PERFORMANCE REPORTING)**

##### **Report by Depute Chief Executive/Director of Corporate Resources**

### **1. PURPOSE OF REPORT**

- 1.1** To advise Policy and Resources Committee of the content of the draft guidance and regulations from the Scottish Executive in relation to Public Performance Reporting and to seek agreement to a proposed Council response.

### **2. BACKGROUND**

- 2.1** Reports on various aspects on the Local Government in Scotland Act 2003, the Statutory Guidance being developed by the Scottish Executive in support of the Act, and the development of the Accounts Commission's New Best Value Audit arrangements have been considered previously by the relevant Council Committees.
- 2.2** To date, the Executive has issued finalised guidance only in respect of the Duty to make arrangements to secure Best Value. The Executive has a programme for the preparation of further guidance on the various other aspects of the Act and is currently consulting councils on draft guidance and regulations issued under section 13 of the Local Government in Scotland Act 2003, intended to assist each local authority in fulfilling its "duty to make arrangements for the reporting to the public on the outcome of the performance of its functions".
- 2.3** Whilst the Executive's general guidance on the Duty to make arrangements to secure Best Value includes a chapter on Accountability, this draft guidance is intended to expand on this and set out the issues an authority should have regard to in demonstrating that its approach to Public Performance Reporting is appropriate.
- 2.4** The Accounts Commission, through its New Best Value Audit arrangements, will assess the extent to which authorities have complied with the requirements of the Local Government in Scotland Act 2003 and the supporting guidance and regulations.
- 2.5** Committee should note that a provisional officer response has been submitted to the Scottish Executive subject to approval of this report in order to meet the consultation deadline of 21 November 2003.

### **3. STATUTORY GUIDANCE AND REGULATIONS**

- 3.1** The consultation from the Scottish Executive on section 13 Draft Guidance and Regulations is essentially divided into 3 sections. The main part of the consultation relates to advice by way of Statutory Guidance to authorities about discharging the duty under section 13(1) of the Act to make arrangements for the reporting to the public on the outcome of the performance of functions. This is the major element of

the consultation report and the issues coming from it, together with proposed Council comments are highlighted in paragraph 3.4 below. For ease of reference, proposed Council comments to the Executive are highlighted in boxed italics.

**3.2** The consultation from the Executive also sets out the Accountability of Local Authorities (publication of information about Finance and Performance) (Scotland) Regulations 2003 which are currently in force. These regulations relate to the publication and reporting of Statutory Performance Indicator information, a report on which was reported to the Policy and Resources Committee meeting on 2 October 2003. In summary, these regulations remove the requirement for Local Authorities to publish a statutory advert within a newspaper circulating within the local authority area and, instead, provide councils with discretion in how they communicate Statutory Performance Information to their public. The deadline for the publication of SPIs was not amended and remains 30 September each year. This Council's new arrangements for the publication of SPIs, as agreed by the Policy and Resources Committee, are in place and the publication deadline has and will continue to be met.

**3.3** The final element of the Scottish Executive consultation relates to the Accountability of Local Authorities (Publication of Information about Finance and Performance) (Scotland) Amendment Regulations 2003 which are currently in draft and on which the Executive is seeking comments. The issues in relation to the Draft Regulations are highlighted in paragraph 3.5 below

### **3.4 Public Performance Reporting Statutory Guidance on the Publication of Financial and Performance Information by Local Authorities**

**3.4.1** The Statutory Guidance has been prepared by and has been recommended to Scottish Ministers by the Best Value Task Force. The Executive highlights that in discharging the general duty described in section 13(1), councils are responsible for and free to make reasonable decisions about what information should be published, how it is communicated, how frequently and to whom. Section 13(1) of the Act applies to reporting on the outcomes of the exercise of any power or obligation of the Authority, including the outcome of pursuing the Duty of Best Value and also the outcome of the Local Authority's own duty of Community Planning although further specific provision is made in Section 17 of the Act for the publication of reports by councils on Community Planning. In relation to Community Planning, however, the guidance does indicate that authorities should have regard to specific guidance being prepared by the Community Planning Task Force in addition to the general advice given in the Draft Guidance.

*The emphasis on making councils responsible for and at the same time free to make reasonable decisions on how best to report on their performance is welcomed. This is consistent with the current thinking from the Accounts Commission in relation to the New Audit of Best Value, which has regard to local solutions matching local circumstances.*

*Given the need to report on the outcome of the Council's own duty of Community Planning, it would be helpful if the further guidance to be produced by the Executive in relation to Public Performance Reporting and Community Planning could be published to coincide with the finalisation of this guidance. In this way councils would know the full requirements in relation to Public Performance Reporting.*

**3.4.2** Chapter 10 of the finalised Statutory Guidance on the Duty to make arrangements to secure Best Value looks at accountability and the use of Public Performance Reporting and has been taken as the starting point for the development of this more detailed guidance on Public Performance Reporting. Authorities are also encouraged to continue to refer to any other advice on good communications practice and, as an example, the guidance highlights key issues from a piece of research undertaken in English Local Authorities which it is suggested may be of value in the development and review of Public Performance Reporting Strategies in Scotland.

**3.4.3** The introduction to the Draft Guidance highlights the key issues which authorities must consider:-

- Authorities should give an honest and balanced picture of their performance
- Authorities should know who their stakeholders are, what performance information they want and how best to provide them with that information
- Authorities must have a strategic approach for Public Performance Reporting to ensure that it is planned, systematic, monitored and reviewed
- Authorities must aim to provide Public Performance Reporting in a manner which engages stakeholders in the improvement process.

*The key issues highlighted are considered to be entirely relevant and provide a high level message for Authorities in relation to the issues that must be taken into account. It is considered however, that the importance of these key issues is somewhat lost in their inclusion in the introduction to the Draft Statutory Guidance. This could be overcome through transferring each of these key issues into the relevant chapter of the Statutory Guidance where they could then be expanded on further.*

**3.4.4** Subsequent chapters of the Draft Guidance look in turn at the following areas:-

- What is Public Performance Reporting?
- Why should Local Authorities report Performance?
- What do Stakeholders need or want to know?
- Appropriate use of Measures
- How should information be published?
- When is the right time to publish?

**3.4.5** Whilst it is not the intention here to review in detail the guidance provided under each of these chapters, it is important to highlight for Committee that there is now a requirement that councils develop a corporate strategy for Public Performance Reporting and for this strategy to be informed by stakeholders' views.

**3.4.6** Currently, this Council's approach to Public Performance Reporting is supported by a framework of reporting and consultation mechanisms through, for example, Local Committees, Statutory Performance Indicator publication, service specific performance reporting etc. and through the publication of a Council-wide Annual Public Performance Report.

**3.4.7** The various requirements set out under the Local Government in Scotland Act 2003, and the subsequent Statutory Guidance are being reviewed in turn by Officers to ensure that current approaches match up to these new expectations and

to alter our approach where necessary. Once the guidance on Public Performance Reporting has been finalised by the Scottish Executive, it will be used to inform the Council's Corporate Public Performance Reporting Strategy, which we are now required to produce.

*A number of issues may usefully be raised with the Scottish Executive in relation to these matters:-*

- *It may be helpful if a more explicit link could be made or closer integration achieved between the Guidance issued under section 1(1) of the Act relating to Accountability and this Draft Guidance relating to Public Performance Reporting.*
- *Clear recognition should be given in the Guidance to the fact that councils will already have their own Public Performance Reporting Frameworks in place and that the review of current approaches, the necessary further consideration of the many aspects contained in the Draft Guidance and the new requirement to produce a Corporate Public Performance Reporting Strategy that is informed by stakeholders' views, will involve significant work and will require a period of time to develop.*
- *The approach to the structure of the Draft Guidance which is built around a series of general questions with answers provided is useful in its simplicity. It would be helpful if this approach could be used consistently throughout the Guidance.*

### **3.5 The Accountability of Local Authorities (Publication of Information about Finance and Performance) (Scotland) Amendment Regulations 2003.**

**3.5.1** Whilst the Statutory Guidance advises Local Authorities of what is expected of them to demonstrate fulfilment of the statutory duties which make up the Best Value requirements provided by the Local Government Act 2003, Regulations instruct councils on precise requirements.

**3.5.2** The Draft Regulations on which the Scottish Executive is currently consulting describe certain matters which must be included in reports made public by Local Authorities in discharging the duty to make arrangements for the reporting to the public of the outcome of the performance of functions and provide time limits in which this prescribed information must be published.

**3.5.3** The Draft Regulations require councils to publish the following information by no later than 31 October following the end of the financial year to which the information relates:-

- a summary of the Local Authority's tangible assets and their value at the end of the financial year, its sources of income, the amounts derived from these sources and its expenditure during that financial year;
- its trading accounts for significant trading operations in the financial year or an abstract of those accounts;
- a summary of its expenditure under significant works contracts;
- 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 year to achieve this.

The Draft Regulations also require the following information to be published by no later than 31 October each calendar year:-

- 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 the statement is made;
- 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.

**3.5.4** All of these requirements will be taken into account once the Regulations are finalised by the Executive and integrated into the Council's Public Performance Reporting Strategy to ensure full compliance.

#### **4. POLICY IMPLICATIONS**

**4.1** The Draft Statutory Guidance requires councils to prepare a Corporate Public Performance Reporting Strategy. Once the Guidance has been issued by the Scottish Executive in finalised form, this will be used to directly inform the Council's future approach to Public Performance Reporting. A report setting out a proposed East Ayrshire Council Corporate Public Performance Reporting Strategy will be presented to a future Committee at the appropriate time.

#### **5. LEGAL IMPLICATIONS**

**5.1** The Local Government in Scotland Act 2003 came into force in April 2003. Among other things, the Act introduced for the first time in Scotland a statutory Duty to make arrangements to secure Best Value. Statutory Guidance and Regulations are being issued by Ministers in support of the requirements set out in the Act. Councils are expected to comply with the requirements of the Act and the Accounts Commission for Scotland will audit compliance through its New Audit of Best Value.

**5.2** Where appropriate, the Accounts Commission has powers to direct the Controller of Audit to carry out further investigations, hold a hearing and state its resultant findings, which may include recommendations. Clearly, it is essential that we ensure that we respond in a positive and proactive way to these new requirements and thereby stand up well to external scrutiny.

#### **6. FINANCIAL IMPLICATIONS**

**6.1** There are no financial implications resulting directly from this report, although it will be important to keep under review the level of resource required to ensure that the Council continues to be well placed to respond to the new challenges presented by the recent legislation and the impending introduction of the Accounts Commission for Scotland's New Audit of Best Value.

## **7. RECOMMENDATIONS**

**7.1** The Committee is asked to:

- (i) note receipt of the consultation from the Scottish Executive;
- (ii) agree the comments highlighted in boxed italics within the report as a basis of a response to the Executive's consultation; and
- (iii) agree to receive a further report setting out a proposed East Ayrshire Council Corporate Public Performance Reporting Strategy at the appropriate time.

**Fiona Lees**  
**Depute Chief Executive/Director of Corporate Resources**

**4 November 2003**

### **BACKGROUND PAPERS**

**The Local Government in Scotland Act 2003**

**Finalised Guidance Approved by the Scottish Ministers S1(1): The Duty to Make Arrangements to Secure Best Value (Continuous improvement in the Performance of Functions)**

**Scottish Executive Consultation on Section 13 Draft Guidance and Regulations.**

Members wishing further information on this report should contact Fiona Lees, Depute Chief Executive/Director of Corporate Resources, tel: 01563 576019 or John Clayton, Head of Corporate Development and Communication, tel: 01563 576165.

**Implementation Officer: Fiona Lees, Depute Chief Executive/Director of Corporate Resources**