



SCOTTISH CONSUMER COUNCIL

**RESPONSE TO THE CONSULTATION  
PAPER**

**“BEST VALUE AND ITS FUTURE IN  
SCOTLAND”**

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**The Scottish Consumer Council’s response  
to the consultation  
“Best Value And Its Future In Scotland”**

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**A BRIEF GUIDE**

- encourage consumer representation in the public services and the privatised utilities;

The Scottish Consumer Council (SCC) was set up by the government in 1975 to promote the interests of consumers, particularly those who experience disadvantage in society.

While producers and suppliers of goods and services are usually well organised and articulate when protecting their own interests, individual consumers very often are not. The people we represent are consumers of all kinds: they may be council tenants, patients, parents, solicitors’ clients, public transport users, or simply shoppers in a supermarket. We speak up for them by communicating with the professions, industry, business, local authorities and central government, using careful research and persuasive lobbying.

#### **Our broad aims are to:**

- represent, promote and safeguard the interests of consumers in Scotland;
- promote the provision of advice and information, choice, representation and redress for the consumers of goods and services;
- identify issues and problems of specific consumer concern;
- monitor and report on services for consumers in the public and private sectors and recommend changes in practice where necessary;
- influence key decision-making processes, policy and practice;

#### **PUBLICATIONS**

The Scottish Consumer Council publishes reports, policy papers and consumer information on a range of areas.

A full list of our publications is available on request from The Scottish Consumer Council, Royal Exchange House, 100 Queen Street, Glasgow, G1 3DN

#### **CONTENTS**

Introduction

- publicise ideas and information of consumer interest and concern;
- play a distinctive and leading role in Scottish affairs.

#### **OUR APPROACH**

When we investigate the way goods and services are being provided - whether it is buying a used car or going into hospital - we use six basic principles to guide our research:

- **access** - can people get the goods, services or information they need?
- **choice** - can consumers affect the way goods and services are provided through the choices they make in the marketplace?
- **information** - is information available, is it easy to understand, and does it help customers to make informed choices?
- **safety** - are goods produced to the highest of standards of safety?
- **redress** - is there a simple, cheap, quick and fair system for dealing with complaints and disputes if things go wrong?
- **representation** - are consumers’ views properly represented in services where there is little or no consumer choice?

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## **INTRODUCTION**

The Scottish Consumer Council welcomes the Best Value initiative, and its potential to transform Scottish local government for the good of those who depend on it. We are committed to the success of local government in Scotland, and assert that local government should lead in excellence.

Consumers should expect council services to meet at least the best standards achieved in the private sector. Sadly, the findings of several recent pieces of research we have carried out reveal problems in councils’ management of some services. For example, we have looked most recently at the management of property in mixed ownership<sup>1</sup>, and at complaints and contract monitoring by councils<sup>2</sup>.

People depend on local authority services to meet a wide range of needs in their lives. For example, many people rely on the council for the provision of their home, for their children’s education, for their leisure activities, and for their transport needs. Wider community safety issues, from pavements that are safe to walk on, to criminal trading practices to food safety, depend on local government. A 1997 report by the Local Government Association makes this point very effectively<sup>3</sup>:

*“Imagine a simple walk to the local shops. The glass in the bus shelter across the street has been smashed and litters the pavement. The burnt out wreck of a car is badly parked on double yellow lines just beyond a blind corner. Children are having to dodge the busy traffic because the school crossing patrol has disappeared. A couple of people have set up makeshift stalls almost blocking the pavement and the items for sale look suspiciously cheap”*

When local authority services fail to meet high standards, therefore, people’s quality of life can be seriously affected, and social exclusion can be exacerbated as the more vulnerable sections of our community depend most on local authorities.

To ensure high standards of service that meet people’s needs, consumers must be involved in:

- the service decisions of each local authority, and
- decisions about the framework of accountability within which local authorities are expected to operate.

While much progress appears to have been made in developing approaches to the first of these two areas, the government has not properly addressed the second. We are concerned that the process by which the government has developed Best Value to date has not involved open consultation until two years down the line. This is in sharp contrast with the situation in England,

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<sup>1</sup> *Factors in Common: how local authorities manage common repairs to property in mixed ownership in Scotland.* Scottish Consumer Council 1998; and *Common interests: the views and experiences of owner occupiers sharing common repairs with local authorities in Scotland.* Scottish Consumer Council, forthcoming.

<sup>2</sup> *Who deals with this? Accountability, complaints and contract monitoring in Scottish local authorities.* Scottish Consumer Council 1998.

<sup>3</sup> *Speaking for communities: a MORI survey of public attitudes to local government.* Local Government Association 1997.

where there have been a series of consultations and more open public debate about Best Value.

We are particularly concerned that the government has made important decisions about local authorities’ service delivery (such as the moratorium on CCT) with little opportunity for public scrutiny. The Scottish Office made these decisions on the basis of local authorities’ Best Value plans, without consulting the public about what its criteria should be, and without clearly publicising the criteria it adopted.

In all, we believe that the approach taken to the development of Best Value in Scotland is not consistent with the government’s commitment to open government, in an area of public policy that impacts significantly on people’s quality of life. We do, however, welcome the approach taken to developing Best Value in housing management. A more inclusive and consultative approach was taken to producing guidelines for housing managers, although it later became clear that the views of consumer groups over issues such as performance indicators differed markedly from the views of service providers.

Service users must be fully involved in developing the framework of Best Value. The concept of Best Value has to be meaningful to them, and decisions made about local authorities’ achievement of Best Value should be fully accountable to the public. Two key aspects of public accountability are complaints and redress, and open scrutiny.

## **USER INVOLVEMENT**

We agree on the need for a statutory basis for user involvement, at local and central government levels, when making decisions that affect local authority services. Effective participation means that mechanisms have to be in place to allow people to participate, but also that users must be involved in monitoring service delivery. User involvement in monitoring service delivery is essential to allow users’ views to shape any subsequent agenda for decision making.

We responded to the recent Scottish Office consultation paper on a national tenant participation strategy. In our response, we called for a duty to consult users. The statutory duty should be linked to a code of practice that presents the principles of effective consultation, in a way that can be publicly audited. The code of practice should be developed in line with recent work on user involvement, for example the National Consumer Council’s work for the Service First Unit on involving users in local charters. We also refer to the SCC’s own work, for example in conjunction with the NHS Management Executive and the Scottish Association of Health Councils on public involvement in primary care.

Our response to the paper on tenant participation, as well as our publication on primary care, are attached for information.

## COMPLAINTS AND REDRESS

Despite the democratic basis of local government, and despite the long history of the Citizen's Charter followed by Service First, service users are in a very weak position when things go wrong. Redress is not easily obtained by users. People can find the large and bureaucratic nature of local authorities confusing. For many reasons, people may be unwilling to make complaints about public services (such as the “gratitude barrier” or fear of reprisals). Our work in 1994 on complaints handling in education showed that many parents fear making a complaint to their children's school. But even when service users wish to pursue a complaint, they can often find it extremely difficult to get something done about a problem. In our forthcoming report *In a Fix*, about owner occupiers who share common property with their council, we are critical of local authorities' complaints handling. Our previous work on complaints and contract monitoring revealed deficiencies in ensuring problems with contractors were dealt with by local authorities. For example, we found problems for parents who wished to complain about contractors who operated school transport, and found no-one willing to take responsibility for resolving the problem.

Close attention needs to be given to the way complaints are handled by local authorities. We agree with section 3.26 of the consultation paper that the role of public complaints needs to be examined. It is worth remembering at this point that when things go wrong, people's quality of life can be seriously affected, and they often have no alternative choice of provider. People need assurances that problems will be resolved quickly and fairly. Consideration should be given, for example, to the role of an independent dispute resolution mechanism to help resolve disputes fairly between service users and providers. Recourse to such a mechanism should be easy and quick.

## OPEN SCRUTINY

We agree that there should be a legislative requirement to produce a Public Performance Reporting Framework. Clear information on local authority performance needs to be publicly available. There should also be clear information about the bases of government decisions about local government. For example, the government's criteria for exempting local authorities from CCT should have been published, and the evidence of satisfactory performance set out.

Accountability in complaints handling is a further key element of open scrutiny. We have referred already to the difficulties in obtaining redress, and we see a clear need for local authorities to be publicly accountable for the way they address and deal with complaints. We suggest this could be achieved by giving statutory powers to consumer bodies to publicly question local authorities about complaints information, coupled with a statutory duty on local authorities to answer such questions. This might be arranged, for example, through appropriate committees of the Scottish parliament. The appropriate consumer bodies to which such statutory powers should apply would usefully be the subject of further discussion. They could include

organisations with an interest in particular groups of consumers, such as school boards, consumer bodies in the utilities, or local health councils, or general consumer organisations such as the Scottish Consumer Council.

## RESPONSES TO QUESTIONS

*Should a Best Value duty be written into statute or are the existing statutes and guidance sufficient to ensure the implementation of Best Value?*

*How might a Best Value duty be defined and to whom should it apply?*

A requirement to achieve value for money already has a statutory basis in Scotland (unlike in England). We are not clear, therefore, about the need for Best Value legislation. If local authorities fail to make satisfactory progress in achieving Best Value, then we would see the need for legislation. If, as the consultation paper asserts, progress is being achieved, then we do not think a statutory Best Value duty should be necessary, other than to repeal the legislation on CCT.

*Should the need for consultation be included in Best Value legislation? If so, how should this be defined?*

We see the need for a statutory basis for consulting users. Service users should have a right to have their views heard and carefully considered when local authorities are making decisions that will affect them.

The recent consultation about a national tenant participation strategy arose out of the frustrations of tenants' groups, who pointed out that despite the tradition of tenant participation, such participation was in fact weak.

Local authorities should be required to consult their service users about service priorities; the quality of service delivery; and the need for changes or improvements. When local authorities make decisions about these matters, they should be required to show how they have involved service users; and to explain how their views were taken into account.

The Scottish Office should publish a code of practice, setting out minimum acceptable standards of user consultation, along with good practice examples. The duty to consult should be clearly linked to the code of practice, so that a failure to consult properly can be readily challenged. The code of practice should be based on recent work on user involvement, for example the National Consumer Council's work for the Service First Unit on involving users in local charters. We also refer to the SCC's own work, for example in conjunction with the NHS Management Executive and the Scottish Association of Health Councils on public involvement in primary care. We would be happy to assist with developing a code of practice.

*Should a requirement to undertake service reviews be included in legislation? If so, how should this be defined?*

*Should statute also outline the key elements, including timescale, of a service review process?*

We are not clear about the need for a statutory requirement to undertake service reviews. The consultation paper says these are already established in Scottish local authorities. Service reviews are part of a process of producing evidence that services are achieving Best Value. We fear that legislation would limit what local authorities do to show this, and may be better promoted by good practice guidance.

*Should the existing statutory duty on the Accounts Commission to specify the performance information required from local government be amended to reflect Best Value?*

*Should Scottish Ministers have a power to specify additional PIs?*

We are aware from our own research that local authorities’ information retrieval needs attention. For example, our report *Factors in Common* showed that some local authorities were unable to retrieve information about the number of repairs they carried out to property they were responsible for, or the number of complaints they received. Local authorities need management information to enable them to run services effectively, and need to be able to produce information on their performance if they are to be accountable. We believe information retrieval needs to be tackled before details of the actual performance information are dealt with. Legislation should only be changed if practice cannot be improved without it.

We believe it would be appropriate to review the role of the Accounts Commission in light of the need for a central, openly transparent body independent of central and local government. The audit of Best Value should be measured against outputs that are meaningful to service users, and the ability of the Accounts Commission to effect this should form part of a review.

We believe the specification of additional PIs should remain independent of government, and should remain the responsibility of the Accounts Commission in consultation with others. We do not think, therefore, that Scottish Ministers should have a power to specify additional PIs. Rather, they should be able to request that the Accounts Commission considers the need for particular performance information they are concerned about. Such requests should equally be welcomed from other bodies and from service users. There may be scope for considering placing a responsibility on the Accounts Commission to report on the information they have been asked to gather, and to explain any decisions they make about this.

*Should legislation include a requirement to produce a Public Performance Reporting framework? If so, how should this be defined in legislation?*

Public performance reporting is essential to accountability. So essential that it should have a statutory basis. Local authorities should be required by legislation, therefore, to produce a Public Performance Reporting framework.

The requirement to report performance should include reference to reporting in plain English. We are concerned that current requirements to publish performance statistics in local newspapers are ineffective. A diverse reporting mechanism is required, which allows service users to see how local authorities have performed and to comment directly on the information. We see the need for a statutory role for consumer bodies to publicly question performance information, coupled with a duty on local authorities to respond. Such responsibilities would enhance accountability, and could be arranged via the appropriate Scottish parliament committees, but the appropriate consumer bodies to involve needs to be further discussed.

*Should there be a requirement to incorporate equality matters in Best Value? If so, how should this be achieved?*

We think it is unacceptable that local authorities are prohibited from taking workforce and equality matters into account when awarding contracts. It has to be recognised that good practice in workforce and equality matters is important to achieve quality services. There should be a requirement to promote equal opportunities in Best Value, and this should reflect at least current legislative requirements and accepted good practice.

*What are the most appropriate arrangements to achieve scrutiny of Best Value, including the structure, content and financial arrangements?*

There must be public scrutiny of local authorities' progress in achieving Best Value. Service users must be fully involved in such scrutiny. To achieve this, consumer bodies (appropriately defined after further discussion) should have statutory powers to receive information about performance and to publicly question it. Coupled with this, local authorities should be required to make a response to questions posed by consumer bodies. In terms of structure, it hearings could be conducted by the appropriate committee of the Scottish parliament.

*Is there a need for an Improvement Agency? If so, what role should it have?*

We are not clear about the need for a new agency to undertake the functions outlined in the paper. These could be readily achieved under current arrangements. The only point we would make on this issue is that all of the inspectorates should include lay members.

*Should there be a formal scheme for highlighting and rewarding innovation and good practice?*

We believe that any measures to encourage the sharing and adoption of good practice are to be welcomed.

*Are the existing intervention powers adequate or should additional powers be defined in statute? If so, how should they be defined?*

*Do the existing arrangements for public complaints require to be changed or enhanced to take account of Best Value?*

Service users are in a weak position to challenge poor practice by local authorities. We see the need to significantly strengthen the consumer voice. This could be achieved by including complaints information in the arrangements for scrutiny of Best Value. Consumer bodies (appropriately defined after further discussion) should have a statutory power to present complaints information, and local authorities should have a statutory duty to respond publicly to this information. Without such a role for complaints information, service users may continue to view complaining as not worthwhile in many instances, if they feel powerless to bring about changes to the service.

## **CONCLUSION**

The Scottish Consumer Council welcomes the Best Value initiative, and its potential to improve local authority services which are important to people’s every day lives.

We are concerned, however, that the Best Value framework has developed over the past two years largely in the absence of public consultation and user involvement. This is not consistent with commitments to open government.

While we are not convinced of the need for Best Value legislation, we do agree on the need for a statutory basis for user involvement. This needs to include involvement in monitoring service delivery.

We see the need for close attention to complaints handling by local authorities. Problems should be resolved quickly and fairly, and we suggest that some consideration be given to an independent dispute resolution mechanism.

We agree on the need for a statutory basis for a Public Performance Reporting Framework, which should include accountability in local authority complaints handling.

We call for statutory powers for consumer bodies (appropriately defined after further discussion) to publicly question local authorities about their performance information and complaints handling, coupled with a duty on local authorities to publicly respond. We see this being operated, for example, through an appropriate committee of the Scottish parliament.

