

MEETING: 9 DECEMBER 2021

REPORT BY: SECRETARY TO THE COMMISSION

STATUTORY PERFORMANCE INFORMATION: DRAFT 2021 DIRECTION

Purpose

1. This report proposes a draft 2021 statutory performance information Direction and reports upon the consultation with stakeholders in this regard, with a view to subsequent publication by the Commission by the end of 2021.

Background

2. The Accounts Commission has the power to direct (as it thinks fit) relevant bodies to publish such information relating to their activities in any financial year or other specified period as will, in the Commission's opinion, "facilitate the making of appropriate comparisons (by reference to the criteria of cost, economy, efficiency and effectiveness and of securing Best Value in accordance with section 1 of the Local Government in Scotland Act 2003) between:
 - i. the standards of performance achieved by different relevant bodies in that financial year or other period; and
 - ii. the standards of performance achieved by such bodies in different financial years or, as the case may be, other periods." ¹
3. Such information is also to facilitate the drawing of conclusions about the discharge of those bodies' functions under the Community Empowerment (Scotland) Act 2015 (in essence, carrying out community planning for the "improvement in the achievement of outcomes").
4. In recent years, the Commission has developed a strategy that the local government community should take greater ownership of the public performance reporting and performance benchmarking agenda. To this end, the Commission has endorsed and supported the development of the local government performance benchmarking framework (LGBF) project. This also reflects a commitment on behalf of the Commission to supporting sector-led improvement. It is consistent with the Crerar principle that the primary responsibility for demonstrating [effective] performance should rest with service providers, based on robust performance management and outcome-focused self-assessment ².
5. In 2018, the Commission published a three-year Direction to councils in line with this strategy. The Commission used the Direction to reflect its expectations in relation to public performance reporting under the Best Value audit approach, and another to ensure continued council reporting of the LGBF.

¹ Local Government Act 1992: Section 1(1)(a)

² The Crerar Review: the report of the independent review of regulation, audit, inspection and complaints handling of public services in Scotland, Scottish Government, 2007.

Review of progress

6. At its last meeting, the Commission considered my [report](#) proposing a draft 2021 SPI Direction to act as a basis for consultation with stakeholders with a view to subsequent publication by the Commission.
7. The proposal was based upon a 2021 review of councils' progress against the requirements of the 2018 Direction. A summary of this review is thus:
 - Councils have responded well to the 2018 Direction and therefore there is a strong case for maintaining the strategy of the Commission that it uses its powers in the 1992 Act to continue to encourage sector-led improvement through a descriptive rather than prescriptive approach.
 - Councils all report, to varying degrees, performance information that can be compared over time and across different bodies.
 - Nevertheless, there is significant variation in the degree to which councils are satisfying the requirements of the Direction.
 - There is scope for more consistency in the reporting of progress against the Direction in the annual audit.
 - Covid-19 has negatively impacted performance and performance reporting, but not to a degree that has significantly compromised councils' response to the SPI Direction.
 - There is scope for improvement in how councils can:
 - Improve accessibility of their performance pages to ensure more easy access for their citizens and communities
 - Report performance against their Best Value duty, and in particular reporting progress against previous Best Value assessments.
 - Report comparative benchmarking information, including relating to the LGBF.
 - Clarify the impact of Covid-19 on performance and performance reporting.
8. At the meeting, the [Commission](#):
 - Agreed that the following be considered by the Commission support team in the further drafting of the consultative draft of the Direction:
 - a. In the requirement to ensure easy access to performance information, making clearer reference to the use of different media and innovation in how they report and communicate on performance (points raised by Tim McKay, Christine Lester and Elma Murray)
 - b. Including reference to councils' approaches to mitigating climate change (Stephen Moore)
 - c. Better reflecting the current priorities of the Commission as set out in its Strategy (Elma Murray).

- Agreed that it consider, at an appropriate time in the future, how to assess progress by councils against the 2021 Direction as part of its consideration of the dynamic work programme.
 - Agreed to discuss with the Improvement Service the scope for collaborating on supporting councils in their development of approaches to public performance reporting
9. Following this decision, the Commission support team sought legal advice on the extent to which the Commission can identify specific priorities within its Direction. Details of the legal advice has been shared with members on the [SharePoint site](#). In summary, the advice stated that the Commission “has no discretion to waive reporting against some parts of the best value duty in order to focus reporting on other parts, nor does it have any power to promote or prioritise some parts of the best value duty over other parts”. On the basis of this advice, it was not possible to incorporate member suggestions (b) and (c) in paragraph 8. In response to suggestion (a) at paragraph 8, the support team emphasised in the draft Direction the need for councils to ensure easy access to performance information for **all** of its citizens. This underlined the point without being overly prescriptive about how a council should facilitate easy access.
 10. The Interim Chair and Interim Deputy Chair reviewed the legal advice and agreed the final draft Direction for consultation, which is included at the end of the consultation letter at [Appendix 1](#).

Consultation

11. The Commission is required by statute to consult with “such associations of relevant bodies and such other persons as it sees fit” before giving a direction which imposes a new requirement on any relevant body.³ It is for the Commission to determine which associations and bodies it wishes to consult and the manner in which it will undertake any consultation activity.
12. The Interim Chair of the Commission wrote to COSLA, SOLACE, the Chair of the LGBF Board, the Improvement Service, the Scottish Performance Management Forum and all council chief executives on 29 October 2021 (the letter and draft Direction is in [Appendix 1](#)). The Secretary also discussed the draft Direction with representatives of the Scottish Performance Management Forum once and twice with the LGBF Board.
13. The draft Direction was positively received, with 18 responses, including 14 from councils. The full list of responses has been saved on the [members SharePoint site](#). Overall, respondents were supportive of the draft Direction and its three-year timeline. In particular, respondents noted support for:
 - Further development of the use by councils of the Local Government Benchmarking Framework
 - Underlining the importance of self-assessments
 - More consistency in the reporting of progress against the Direction and Best Value in the annual audit
 - Councils reporting on how they engage with, respond to and help to empower, their communities, including those who require greater support
 - The importance of performance information being easy to understand and access for all citizens and communities, although one respondent requested

³ Local Government Act 1992: Section 2 (3)

recognition of challenges over the past 18 months in making performance information more accessible, especially to those who are digitally excluded.

14. In addition, some respondents asked specific questions and points of clarification. A summary of these responses and proposed implications for the SPI Direction and the Commissions wider work are outlined in Table 1 below.

Table 1 Summary of consultation responses and proposed implications for the SPI Direction

Comment	Proposed implications for draft SPI Direction and Commission's work
Statutory Performance Indicator 1: Improving local services and local outcomes	
<p>Local Government Benchmarking Framework</p> <p>While all respondents noted the value of the LGBF tool:</p> <ul style="list-style-type: none"> - Some noted that not all indicators were relevant to certain council areas, which have different service models and priorities across Scotland - One noted the importance of the phrase <i>'drawing upon information published by the Local Government Benchmarking Framework and from other benchmarking activities'</i> rather than all councils using LGBF data in its entirety. - One suggested that the Direction makes the specific distinction that councils have the ability to draw from the LGBF as required to meet each local authority's priorities. - One suggested that where the Commission expects councils to publish information allowing comparison over time and with other similar bodies, there should be additional clear reference to how this information is used to drive improvement when reporting to the public 	<p>This is useful feedback for the Commission.</p> <p>The Commission is clear that it is for councils themselves decide what information they draw upon from the LGBF.</p> <p>In relation to the first three bullet points, SPI1 is also clear that the council should be reporting against "desired outcomes agreed with their partners", which allows councils to decide how best to use LGBF information to report progress against such outcomes. This seems a reasonable balance between prescription and reflecting local requirements.</p> <p>In relation to the fourth bullet point, SPI2 requires the council to report "its assessment of how it is performing against its duty of Best Value, including self-assessments and service review activity, and how it has responded to this assessment". It is reasonable to expect that councils consider how to combine the requirements of the two indicators to best present how they are aiming to improve.</p> <p>Two changes are therefore proposed to the draft Direction in Appendix 2: the first to encourage combining the indicators as appropriate (reference 1); and the second to encourage the publishing of accessible information (reference 2).</p>

Comment	Proposed implications for draft SPI Direction and Commission's work
Public performance reporting	
<p>Seven councils requested that the Commission is more explicit in what it regards as best practice and that it provides examples or more structured guidance, standards and the criteria for assessment.</p> <p>One respondent asked whether there were any plans to update the 2020 Best Value guidance with similar PPR guidance that accompanied the original Best Value guidance.</p>	<p>No changes proposed to the draft Direction.</p> <p>Instead, as agreed at its October meeting the Commission committed to <i>'discussing with the Improvement Service the scope for collaborating on supporting councils in their development of approaches to public performance reporting'</i></p> <p>We will use the detailed feedback from respondents as we take forward such discussions with the Improvement Service</p>
The impact of Covid-19 on performance and performance reporting	
<p>Whilst not explicitly included in the revised Direction (– as discussed in paragraph 9 - it is outwith the Commission's powers to specify priorities), four respondents supported the importance of clarifying the impact of Covid-19 on performance and performance reporting.</p> <p>One council suggested the Commission produces a national report on Covid-19 recovery outcomes</p> <p>One council suggested referring to the National Performance Framework when making national comparisons in relation to Covid-19.</p>	<p>No changes proposed to the draft Direction.</p> <p>At its October meeting, the Commission agreed that it consider, at an appropriate time in the future, how to assess progress by councils against the 2021 Direction as part of its consideration of its joint dynamic work programme with the Auditor General for Scotland.</p> <p>While the suggested national report on Covid-19 recovery outcomes will form part of longer-term considerations, two joint reports relating to the impact of Covid-19 are due to be published early 2022:</p> <ul style="list-style-type: none"> - Scotland's economy: Supporting businesses through the Covid-19 pandemic and planning Scotland's economic - Reviewing Scotland's financial response to the Covid-19 pandemic
Statutory Performance Indicator 2: Demonstrating Best Value	
Future approach to assessing Best Value as part of the annual audit	
<p>Five respondents requested stronger guidance on Best Value assessment criteria, to ensure a more consistent approach collectively, and assist individual councils in complying with the duty with greater assurance.</p>	<p>No changes proposed to the draft Direction.</p> <p>As the new approach to Best Value is implemented, auditors will assess council performance based on the Best Value: revised statutory guidance 2020.</p> <p>As the Commission moves towards a new approach to auditing Best Value, the Best Value Working Group can also give further thought to how the Commission may play a role in promoting the value of the current statutory guidance.</p>

Comment	Proposed implications for draft SPI Direction and Commission's work
One council specifically asked for additional guidance on what is required to demonstrate community engagement and empowerment and/or how this will be assessed in Best Value audits	<p>No changes proposed to the draft Direction.</p> <p>The statutory guidance includes guidance on Best Value theme 5: working with communities (page 15).</p> <p>The Commission has agreed one of its priorities as reporting on the relationship between local government and its different communities. The work programme will therefore reflect this priority.</p>
One council asked for clarification on what role the annual audit report will play in this.	<p>No changes proposed to the draft Direction.</p> <p>The new Code of Audit Practice sets out the Commission's requirements of auditors, including the reporting through the integrated audit progress against previous Best Value reporting, including where appropriate the reporting of performance to the public.</p>
One respondent suggested it may be helpful to specifically state the Best Value duty within the Direction to make the connection between performance and improvement (i.e., to make arrangements to secure continuous improvement in performance etc).	<p>We believe the changes proposed above (the first to encourage combining the indicators as appropriate (reference 1); and the second to encourage accessible information (reference 2)) will help to underline the connection between performance and improvement (without the need for the full definition of the Best Value Duty). So no further changes proposed to the draft Direction.</p>
One respondent suggested the role of Senior Managers and Elected Members in enabling more balanced reporting should be specifically expressed	<p>No changes proposed to the draft Direction.</p> <p>While we note the comment, we do not think it appropriate to use the SPI Direction to specify roles in what is the collective duty of a council to ensure balanced reporting.</p>

Proposed Direction

- The proposed Direction is in [Appendix 2](#). It reflects the views of the Commission from its October meeting and the proposed response to the consultation on the draft Direction (highlighted yellow).

Next steps

- Once agreed, we plan to publish the final SPI Direction on 20 December. This will be accompanied by a short blog from the Interim Chair Elma Murray. The Support team will respond to all consultees outlining the Commission's response to the points they raised.
- At its previous meeting, the Commission agreed that it considers, at an appropriate time in the future, how to assess progress by councils against the 2021 Direction as part of its consideration of the dynamic work programme. This will be taken forward and reported back to the Commission.

Conclusion

18. The Commission is asked to:

- consider the attached SPI Direction, for publication by the end of 2021.
- Note that I will report back on how to assess progress by councils against the 2021 Direction as part of the dynamic work programme.

Paul Reilly
Secretary to the Commission
1 December 2021

CONSULTATION COMMUNICATION



4th Floor
102 West Port
Edinburgh EH3 9DN

29 October 2021

Address

Dear name

Statutory performance information: 2021 Direction

I write to seek your views on the proposed Direction to be issued by the Accounts Commission which sets out its requirements on councils to report their performance to their citizens and communities. The Commission has a power (under the Local Government Act 1992) to direct councils to publish such information relating to their activities which will, in the Commission's opinion, "facilitate the making of appropriate comparisons between:

- i. the standards of performance achieved by different relevant bodies in that financial year or other period; and
- ii. the standards of performance achieved by such bodies in different financial years or, as the case may be, other periods."

Such information should also allow conclusions to be drawn about the discharge of functions under the Community Empowerment (Scotland) Act 2015 (in essence, carrying out community planning for "improvement in the achievement of outcomes").

While this power pre-dates its powers in relation to Best Value, the Commission has in recent years used the power to complement its powers of auditing Best Value, particularly in relation to public performance reporting. In recent years, the Commission has taken more of a descriptive rather than prescriptive approach in directing councils what to publish.

The Commission has approved the attached draft Direction (see [Appendix](#)) as a basis of consultation with stakeholders (namely COSLA, SOLACE, the Improvement Service, the Local Government Benchmarking Board, the Scottish Performance Management Forum and councils themselves), as a proposal for publishing the Direction in December 2021, to cover the three years from the start of the financial year ending 31 March 2023. The Commission considered this [report](#) in public on 7 October 2021, which summarised a review of councils' response to the previous Direction published by the Commission in 2018 and some informal dialogue with the LGBF Board and the Scottish Performance Management Forum.

In summary, the review found that councils have responded well to the 2018 Direction (albeit with variation between councils), thereby presenting a strong case for

maintaining the Commission's strategy of encouraging sector-led improvement in the reporting of council performance to the public.

The Commission is therefore proposing a new Direction which largely follows the previous Direction but with some important revisions:

- Underlining the importance of self-assessment of performance.
- To reflect the Commission's ambitions with integrated audit by including reference to the annual audit's role in assessing performance against the Best Value duty.
- To reflect the Commission's ambitions with coordinated scrutiny of local government, including reference to the assessments of other scrutiny and inspection bodies
- To reflect the Commission's strategic priorities, including reference to, for example, ensuring good accessibility of citizens to the performance information reported publicly.

The Commission will also use the Direction to underline its continued encouragement for the further development of the LGBF project, the progress of which we have been pleased to note. The Commission is of the firm view that benchmarking is a core part of councils' ability to gauge and improve their performance and report this performance to the public.

I would be grateful to hear your views by Thursday 25 November. If desired, then please feel free to liaise with the Secretary to the Commission, Paul Reilly (email: preilly@audit-scotland.gov.uk or phone 0131 625 1809 (direct dial).

I look forward to hearing from you.

Yours sincerely



Elma Murray
Interim Chair

Enc: Draft Statutory Performance Information Direction 2021

**PROPOSED PUBLICATION OF INFORMATION (STANDARDS OF PERFORMANCE)
DIRECTION 2021**

**LOCAL GOVERNMENT ACT 1992
THE PUBLICATION OF INFORMATION
(STANDARDS OF PERFORMANCE) DIRECTION 2021**

1. This Direction is given by the Accounts Commission for Scotland (“the Commission”) under section 1(1)(a) of the Local Government Act 1992, which requires the Commission to direct relevant bodies to publish such information relating to their activities in any financial year or other specified period as will, in the Commission’s opinion:

“facilitate the making of appropriate comparisons (by reference to the criteria of cost, economy, efficiency and effectiveness and of securing best value in accordance with section 1 of the Local Government in Scotland Act 2003) between –

- i. the standards of performance achieved by different relevant bodies in that financial year or other period; and*
- ii. the standards of performance achieved by such bodies in different financial years or, as the case may be, other periods”*

Such information is also to facilitate the drawing of conclusions about the discharge of those bodies' functions under the Community Empowerment (Scotland) Act 2015 (in essence, carrying out community planning for the “improvement in the achievement of outcomes”).

2. This Direction is given to all local authorities, as defined by the Local Government (Scotland) Act 1973, and amended by the Local Government etc. (Scotland) Act 1994.

3. Each of the bodies referred to in paragraph 2 shall, in accordance with section 13 of the Local Government in Scotland Act 2003 and associated regulations and guidance from Scottish Ministers, publish the information specified in the schedule to this Direction for all

those activities which are carried out by the body

4. The periods for which the information in the schedule must be published are the financial years ending 31st March 2023, 2024 and 2025.

5. In the schedule, the term ‘Best Value’ shall be interpreted in accordance with the definition and requirements of Part 1 of the Local Government in Scotland Act 2003. This includes reference to the revised statutory guidance 2020 and the Best Value themes of:

- 1. Vision and leadership
- 2. Governance and accountability
- 3. Effective use of resources
- 4. Partnerships and collaborative working
- 5. Working with communities
- 6. Sustainability
- 7. Fairness and equality

Schedule

Each council will report a range of information in the following areas:

Statutory Performance Indicator 1: Improving local services and local outcomes

- Its performance in improving local public services, both provided by itself and in conjunction with its partners and communities.
- Progress against the desired outcomes agreed with its partners and communities.

The Commission expects the council to report such information to allow comparison (i) over time and (ii) with other similar bodies (thus drawing upon information published by the Local Government Benchmarking Framework and from other benchmarking activities).

The Commission expects the council to, in agreeing its outcomes with its partners and communities, report on how it has engaged with, responded to and helped to empower its communities, including those who require greater support.

Statutory Performance Indicator 2: Demonstrating Best Value

- Its assessment of how it is performing against its duty of Best Value, including self-assessments and service review activity, and how it has responded to this assessment.
- Audit assessments (including those in the annual audit) of its performance against its Best Value duty, and how it has responded to these assessments.
- Assessments from other scrutiny and inspection bodies, and how it has responded to these assessments.

In satisfying the requirements set out in this schedule, the Commission expects the council to take cognisance of [current statutory guidance on Best Value requirements](#), and in particular to ensure:

- Balance in reporting areas of improvement that have been achieved and not achieved.
- This is undertaken in a timely manner.
- Easy access to its performance information for all of its citizens and communities.

PROPOSED DIRECTION 2021

**LOCAL GOVERNMENT ACT 1992
THE PUBLICATION OF INFORMATION
(STANDARDS OF PERFORMANCE) DIRECTION 2021**

1. This Direction is given by the Accounts Commission for Scotland (“the Commission”) under section 1(1)(a) of the Local Government Act 1992, which requires the Commission to direct relevant bodies to publish such information relating to their activities in any financial year or other specified period as will, in the Commission’s opinion:

“facilitate the making of appropriate comparisons (by reference to the criteria of cost, economy, efficiency and effectiveness and of securing best value in accordance with section 1 of the Local Government in Scotland Act 2003) between –

- i. the standards of performance achieved by different relevant bodies in that financial year or other period; and*
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Such information is also to facilitate the drawing of conclusions about the discharge of those bodies' functions under the Community Empowerment (Scotland) Act 2015 (in essence, carrying out community planning for the “improvement in the achievement of outcomes”).

2. This Direction is given to all local authorities, as defined by the Local Government (Scotland) Act 1973, and amended by the Local Government etc. (Scotland) Act 1994.

3. Each of the bodies referred to in paragraph 2 shall, in accordance with section 13 of the Local Government in Scotland Act 2003 and associated regulations and guidance from Scottish Ministers, publish the information specified in the schedule to this Direction for all

those activities which are carried out by the body

4. The periods for which the information in the schedule must be published are the financial years ending 31st March 2023, 2024 and 2025.

5. In the schedule, the term ‘Best Value’ shall be interpreted in accordance with the definition and requirements of Part 1 of the Local Government in Scotland Act 2003. This includes reference to the revised statutory guidance 2020 and the Best Value themes of:

- 1. Vision and leadership
- 2. Governance and accountability
- 3. Effective use of resources
- 4. Partnerships and collaborative working
- 5. Working with communities
- 6. Sustainability
- 7. Fairness and equality

Schedule

Each council will report a range of information covered by the following two indicators (including in combination if desired)⁴:

Statutory Performance Indicator 1: Improving local services and local outcomes

- Its performance in improving local public services, both provided by itself and in conjunction with its partners and communities.
- Progress against the desired outcomes agreed with its partners and communities.

The Commission expects the council to report such information to allow comparison (i) over time and (ii) with other similar bodies (thus drawing upon information published by the Local Government Benchmarking Framework and from other benchmarking activities).

The Commission expects the council to, in agreeing its outcomes with its partners and communities, report on how it has engaged with, responded to and helped to empower its communities, including those who require greater support.

Statutory Performance Indicator 2: Demonstrating Best Value

- Its assessment of how it is performing against its duty of Best Value, including self-assessments and service review activity, and how it has responded to this assessment.
- Audit assessments (including those in the annual audit) of its performance against its Best Value duty, and how it has responded to these assessments.
- Assessments from other scrutiny and inspection bodies, and how it has responded to these assessments.

In satisfying the requirements set out in this schedule, the Commission expects the council to take cognisance of [current statutory guidance on Best Value requirements](#), and in particular to ensure:

- Balance in reporting areas of improvement that have been achieved and not achieved.
- This is undertaken in a timely manner.
- Easy access to its performance information for all of its citizens and communities, with such information presented in an accessible style⁵.

⁴ Reference 1, paragraph 14

⁵ Reference 2, paragraph 14